

September 25, 2007



**TRANSCRIPT**  
September 25, 2007

**MONTGOMERY COUNTY COUNCIL**

Councilmember Marilyn Praisner, President  
Councilmember Michael Knapp, Vice President  
Councilmember Phil Andrews  
Councilmember Roger Berliner  
Councilmember Marc Elrich  
Councilmember Valerie Ervin  
Councilmember Nancy Floreen  
Councilmember George Leventhal  
Councilmember Duchy Trachtenberg



September 25, 2007

Council President Praisner,

Good afternoon, ladies and gentlemen, if we could please rise for invocation by Reverend Corey Sharpe from Faith United Methodist Church of Rockville. Do you want to come forward – where's Reverend Sharpe? Not here. Okay, then we'll have a moment of silence. [Moment of Silence Observed] Thank you. We have a presentation of a Proclamation in recognition of Thyroid Cancer Awareness Month by Councilmember Berliner – who isn't here either. So let's move to Councilmember Leventhal's Proclamation in recognition of September as Leukemia and Lymphoma Awareness Month.

Councilmember Leventhal,

[Introductions] All right. Well, this is our opportunity to think about some diseases that claim an estimated 60,500 people in the United States this year; and, unfortunately, 170 of those deaths are projected to occur in Montgomery County each year. So we have this proclamation. As with many other diseases of concern, we take the opportunity to recognize and to spend particular time and attention on them. And so today we're concentrating on leukemia and lymphoma. And we have this Proclamation that acknowledges that blood-related cancers currently afflict more than 700,000 Americans, with an estimated 110,000 new cases diagnosed each year -- including approximately 300 new cases in Montgomery County. And as I said, regrettably it's projected that approximately 170 of those cases will result in death in Montgomery County. And the Leukemia and Lymphoma Society, which, through voluntary contributions, is dedicated to finding cures for these diseases through research efforts and support for those that suffer from them; and, WHEREAS, Montgomery County is committed to the eradication of these diseases and supports the treatments of its residents that suffer from them; and, WHEREAS, Montgomery County encourages private efforts to enhance research funding and education programs that address these diseases; NOW THEREFORE BE IT RESOLVED, that the Montgomery County Council hereby proclaims the month of September as Leukemia and Lymphoma Awareness month. Presented today by me, but signed by Council President Marilyn Praisner.

Council President Praisner,

We're winging it today. We've had an intense day.

Council Vice President Knapp,

It's bad to start early – apparently it's worse in the afternoon. [Photo Session] Okay. Would one of you like to address our television audience about leukemia and lymphoma -- Mr. Clay? This is for you.

Sidney Clay,

All right. My name is Sidney Clay. I'm a resident of Montgomery County since 1968; and I am a leukemia cancer survivor back to 1998, in which I joined the Board in trying to help promote what we all can do. And there's a walk coming up in the third week of October right here in the city of Rockville, and we hope that everyone will come out and join. If you can't join the walk, then you can check out the web page and figure out how you can contribute in terms of your time, talent, and resources. But I want to thank you



September 25, 2007

1 very much for doing what you did today, and all of the members; and we have a little gift  
2 for you.

3 Councilmember Leventhal,  
4 Thank you.

5  
6 Sidney Clay,  
7 And your assistant as well.

8  
9 Councilmember Leventhal,  
10 Great. Excellent. Okay.

11  
12 Sidney Clay,  
13 And an article.

14  
15 Councilmember Leventhal,  
16 All right.

17  
18 Sidney Clay,  
19 Thank you very much.

20  
21 Councilmember Leventhal,  
22 Well, thank you for being here.

23  
24 Sidney Clay,  
25 All right.

26  
27 Council President Praisner,  
28 Thank you. [Applause] Now we'll have a proclamation presentation in recognition of  
29 Thyroid Cancer Awareness Month by Councilmember Berliner.

30  
31 Councilmember Berliner,  
32 Like most of us, my own awareness of [unheard due to lack of mic]

33  
34 Council President Praisner,  
35 Roger, your mic -- can you turn that mic on? Thank you.

36  
37 Councilmember Berliner,  
38 -- and it is because of the awareness that she has brought to our office that we felt that  
39 it was appropriate to recognize that this particular form of cancer is the fastest-growing  
40 type of cancer that is taking place today. In the last ten years, it more than doubled. So,  
41 whereas it doesn't receive the attention of many other types of cancer, this is one that is  
42 going out of control; and it's a serious issue for many, many people. So we wanted to  
43 bring more attention to it. We wanted to urge early detection. We wanted to urge more  
44 funding. And so the Council joins me in this proclamation. The County Council of  
45 Montgomery County Maryland proclaims: WHEREAS, Thyroid Cancer Survivors  
46 Association, Inc. (ThyCa) as a national nonprofit 501c3 organization of thyroid cancer



September 25, 2007

1 survivors, family members, and healthcare professionals; and, WHEREAS, ThyCa is  
2 dedicated to increasing thyroid cancer education, raising awareness of the importance  
3 of early detection, treatment and lifelong monitoring, and supporting the need for more  
4 thyroid cancer research; and, WHEREAS, according to ThyCa, the United States  
5 Department of Health and Human Services and the American Cancer Society, thyroid  
6 cancer is one of the few cancers that is increasing in incidents and is expected to reach  
7 a record of 33,500 newly-diagnosed cases in the United States in 2007 -- which is 11%  
8 higher than last year's number and about double the number from ten years ago; and  
9 WHEREAS, thyroid cancer can occur in any age group, although it is most common  
10 after age 30, and it's aggressiveness increases significantly in older patients, with  
11 females more likely to have thyroid cancer at a ratio of 3 to 1; NOW THEREFORE BE IT  
12 RESOLVED, that the Montgomery County Council hereby proclaims September 2007  
13 Thyroid Cancer Awareness month; and, BE IT FURTHER RESOLVED, that the County  
14 Council joins with Thyroid Cancer Survivors Association in encouraging everyone to ask  
15 for a neck check at each doctor's appointment, and encourages participation in activities  
16 to support education programs and the funding of research programs to find a cure for  
17 thyroid cancer. Presented on this 25th day of September, in the year 2007, Roger  
18 Berliner -- Marilyn Praisner, Council President. So I present that to you, sir.

19  
20 Gary Bloom,  
21 Thank you. Thank you very much.

22  
23 Councilmember Berliner,  
24 Thank you very much. And let me invite -- Becca is going to speak.

25  
26 Rebecca Lord,  
27 Hello. This is Gary Bloom, and Gary Bloom is the Executive Director of ThyCa and also  
28 the head of a local support group for thyroid cancer survivors. And this is Cherry  
29 Wonderlick, who is one of our volunteer coordinators as well. So all of us have thyroid  
30 cancer, and all of us are encouraging everyone to take this opportunity to do what the  
31 proclamation says and do the neck check and talk to your doctor about it. But also to  
32 raise awareness in a broader level in terms of supporting ThyCa's research activities  
33 and supporting as well the need for more urgent funding -- I should say the need for  
34 funding for thyroid cancer research. It's very important to have new treatments and new  
35 cures for thyroid cancer. I want to take this opportunity to thank Roger Berliner, who so  
36 kindly agreed to share this moment with us and issue this proclamation, and the rest of  
37 the Council staff for their support of this as well, and the councilmembers. Thank you,  
38 everyone. [Applause] [Photo Session]

39  
40 Council President Praisner,  
41 Thank you. We now move to two public hearings. Good afternoon, ladies and  
42 gentlemen. This is a public hearing on a Supplemental Appropriation to the Montgomery  
43 County Fire and Rescue Service FY08 Operating Budget for a maintenance, staging,  
44 and storage facility for Fire and Rescue Service apparatus. A Public Safety Committee  
45 worksession is tentatively scheduled for September 27th at 9:30 a.m. Persons wishing  
46 to submit additional comments should do so by the close of business today -- Tuesday,



September 25, 2007

September 25th -- so that your concerns can be included in the material being prepared for Council consideration. There are no speakers for this hearing. Good afternoon, ladies and gentlemen. This is a public hearing on a Supplemental Appropriation to the FY08 Operating Budget of the Arts and Humanities Council Non-Departmental Account for the Sandy Spring Odd Fellows Hall in the amount of \$90,000. A Health and Human Services Committee worksession is tentatively scheduled for October 8th at 2:45 p.m. Persons wishing to submit additional comments should do so by the close of business on Monday, October 1st, so that your concerns can be included in the material being prepared for Council consideration. Before beginning your presentation, please state your name and address clearly for the record and spell any unusual names. We have three speakers: Laura Wright, for the Preservation Committee for Sandy Spring Odd Fellows Hall; Winston Anderson, speaking on his own behalf; and my good friend, John Greene, speaking on his own behalf. If you would all come forward, please. And, Laurie, you're first. Go ahead.

Laura Wright,  
I think my mic is already on.

Council President Praisner,  
Yes, it's on. Go ahead.

Laura Wright,  
My name is Laura Anderson-Wright, and I'm pleased to be here this afternoon in front of the esteemed Montgomery County Council. An important piece of history, notably Black history, has been left to ruin; but it's not too late to save the historic Odd Fellows Lodge in Sandy Spring, Maryland. Rather than allow this to happen, a group of concerned citizens has stepped in and stepped up when nobody else did. Out of personal funds, approximately \$6,000 to date, this group cleared the debris from the interior and exterior of the historic site and installed a tarp over the dilapidated roof. In addition, a boundary survey was commissioned and title search completed. These legal hurdles had to be surmounted so that a perpetual preservation easement could be signed and recorded with the State. And we are pleased to report that these important prerequisites to accessing grant funding are now complete. This group was also successful in a request to the Maryland Historical Trust. That state body awarded a \$50,000 grant to be used towards architectural and engineering plans; and after a public bid process, a qualified Montgomery County architect with extensive experience in local preservation projects, Thomas Taltavull, was selected and has already begun his work. Subsequently, a State Bond Bill was introduced and passed. This \$100,000 bond bill, however, requires a 1-to-1 match. Despite our grassroots efforts to raise the needed match, it is slow going; and time is clearly of the essence. That is why we come to you today. The time it might take to raise the remaining \$90,000 is time simply that the building doesn't have to spare. Thus, our humble request of \$90,000 to serve as the match is here for your consideration today. As a local attorney, who learned a great deal as a member of the Board of Directors for the Arts and Humanities Council and as a former board member of the Montgomery County Historical Society, I understand the role that a concerned and responsive government can play in improving the quality of life for its residents. And



September 25, 2007

1 quality of life isn't limited to the issues of crime, education, and housing. Yes, those are  
2 definitely important issues; but it's also important to create, preserve, and maintain  
3 cultural and historic treasures that but for governmental intervention and assistance  
4 would be lost forever. And the Odd Fellows Lodge is one such treasure. What becomes  
5 of a saved Odd Fellows Lodge? Much like the Smithville School in Colesville, it would  
6 add to the already rich history Sandy Spring enjoys and could play a role as a heritage  
7 museum. Yet it would be unrealistic to presume that the lodge could solely support itself  
8 as a heritage museum. Consequently, it would also be a facility where the lion's share of  
9 its revenue comes from rentals -- whether it be used for after school programming;  
10 outreach efforts sponsored by its neighbor, the Sharp Street Church; a home base for  
11 the Sandy Spring Civic Association; a meeting space for a variety of organizations in the  
12 area -- there are multiple uses for which this adaptable building can be utilized. If you  
13 have any questions, my contact information is in your packets along with some articles.  
14

15 Council President Praisner,

16 Thank you. You're next, sir. You need to push the button in front of you. Thank you.  
17

18 Winston Anderson,

19 Good afternoon, ladies and gentlemen. Of the over 100 historic sites in the lower  
20 Patuxent region of Montgomery County, only three have been indicated as historic sites.  
21 Of these three, there is a cemetery in Sunshine that is unmaintained. There is the  
22 Oakley Cabin. And at last, there is the Odd Fellows Hall that is about to fall. I want to  
23 correct my daughter in that we have spent over \$20,000 out-of-pocket just to maintain  
24 this facility. We have been to the court to prevent the County from condemning the  
25 building. We have battened up the windows and the stairs and everything so that the  
26 building can be preserved. We have replaced the roof, but now we are in serious  
27 danger of losing this building. I don't think that it will last another winter. So we have to  
28 move very rapidly to do something about it. I want to point out that it's not only the  
29 historic significance of this building that we are emphasizing. It's important to the  
30 descendants of all those Odd Fellows from 1906 who built this building. It's important to  
31 the communities of Sandy Spring and Holly Grove and Good Hope and Round Oak and  
32 Cincinnati and Smithville and so forth. But I want to point out that we must preserve the  
33 building for the future. A revitalized Odd Fellows building would target all ethnic groups.  
34 It will serve as an important social and cultural center, and this is what I would love to  
35 emphasize. It's important that we emphasize education and multi-cultural understanding  
36 of ethnic groups. The target group will include school children, adults, and seniors. The  
37 lodge will again assume a leadership role in socialization and education of youth in the  
38 areas of Sandy Spring and the surrounding area. It will complement efforts of the Sandy  
39 Spring Museum, the Oakley Cabin, the Slave Museum and African Art Gallery, the  
40 Sharp Street Church, and the Quaker Meeting House and Olney Theatre complex in  
41 educating and creating racial harmony between all residents of the County and its  
42 environments by participating in the State's Heritage Tourism Initiative. Thank you very  
43 much.  
44

45 Council President Praisner,

46 Thank you, Mr. Anderson. Mr. Green? John, you need to push -- yeah.



September 25, 2007

John Greene,

Thank you, Madame President; and to the members of the Council, my name is John Greene. I am the Noble Grand of the lodge. I have been a member there since 1969. I have here a finished product picture of what we would anticipate the final project to look like. And if you saw it now, you'd know that that would be a milestone reach to get to there [photo]. Thirty years Sandy Spring Lodge -- going back into the early '20s, 1920 and thereafter -- has served as a place in Sandy Spring, Maryland, and Afro-Americans living in the Sandy Spring community that perhaps have touched more than 90% of all of the Afro-Americans in the Sandy Spring area whereby it was a place for -- well, it was a lodge; and members stretched throughout the entire Sandy Spring area, according to our records. There are very few of us left now. The membership has dwindled down to a very few. And those of us that is still around have taken an oath to try to do everything in our power to restore and preserve this facility for the future. And as my colleagues have so well indicated as to how we would see and want to see this used, we beg humbly for your consideration. Thank you.

Council President Praisner,

Thank you very much. I see no lights, so thank you all very much. That concludes this hearing. We'll now move to General Business. Agenda and Calendar Changes, Madame Clerk?

Council Clerk,

There are none.

Council President Praisner,

Okay, and there are no petitions as well. Action on Minutes, Madame Clerk?

Council Clerk,

Yes. The Minutes of September 11th are before you for approval.

Council President Praisner,

Is there a motion?

Councilmember Trachtenberg,

Motion to approve.

Council President Praisner,

Councilmember Trachtenberg moves approval. Is there a second? Second, Vice President Knapp. All in favor of approval of the minutes? [Show of hands] That is unanimous. Thank you all very much. We'll now move to the Consent Calendar. I must say, this is the longest consent calendar I've seen on a non-end-of-Council-pre-recess day in a long time. Is there a motion for approval of the Consent Calendar?

Councilmember Andrews; second by Councilmember Floreen. I want to note, as Chair of the PHED Committee, item "J" which is action on the Special appropriation which the PHED Committee recommends approval of the \$1.5 million to address the adverse



September 25, 2007

1 economic impacts of the 2007 drought on the agricultural community. I want to thank  
2 the County Executive and Vice President Knapp for taking the lead on this issue. Since  
3 we still don't have very much rain, it's very much a major issue. Vice President Knapp.  
4

5 Council Vice President Knapp,

6 Thank you, Madame President. I just wanted to extend my appreciation to you and the  
7 Committee members for your expeditious review of this and support, and the full  
8 Council and the County Executive for their support. Clearly the agricultural community is  
9 only beginning to get a sense of the difficulties they will see in this harvest, but all  
10 indications are that it's not going to be pretty. And so this \$1.5 million will be well spent  
11 as we continue to discuss ways that we can continue to preserve the viability of  
12 agriculture in the County. This is going to be going a long way. I also just want to  
13 comment on items "P" through "EE." I'm always struck by the number of committees  
14 and commissions that we have; but more importantly, the willingness of our residents to  
15 actually serve on such Committees. I was struck. We have the Commission on People  
16 with Disabilities, Countywide Recreation, the Advisory Board, Domestic Violence  
17 Coordinating Council, the Human Rights Commission -- just to name a few -- the Water  
18 Quality Advisory Group -- all important avenues and opportunities for our residents to  
19 contribute to the awareness of activities in our County and to contribute to policies that  
20 hopefully will ultimately improve our County. And so I just wanted want to thank all of  
21 the many people who are listed here for their willingness to serve and give of their time  
22 and their passion for the community.  
23

24 Council President Praisner,

25 Okay. I see no other -- oh, Councilmember Berliner?  
26

27 Councilmember Berliner,

28 Just a special note that in action "Q," the Commission on People with Disabilities, just to  
29 note that Aaron Kauffman, who served as an intern in our office, is now going to serve  
30 on that commission and just what a treat it was to have him with us and how much the  
31 County will gain by his serving on that commission. Thank you.  
32

33 Council President Praisner,

34 Okay. I see no other lights, so all in favor of approval of the longest Consent Calendar in  
35 a while, please indicate by raising your hand. [Show of hands] It's unanimous. I see Ms.  
36 Floreen in the back of the room, Madame Clerk. Okay. With that behind us, we will  
37 move now to the Resolution to approve the FY09 Operating Budget Priorities and  
38 Performance Measures. And I will turn it over to the Chair of the MFP Committee,  
39 Councilmember Trachtenberg.  
40

41 Councilmember Trachtenberg,

42 Thank you, Council President Praisner. The budget priorities were clearly discussed a  
43 few weeks back at a public hearing; and since that time, we've actually received quite a  
44 bit of input from the community about priorities. And during yesterday's MFP  
45 worksession, the Committee discussed those letters and the proposed resolution  
46 language, which is before us today. And I believe it's good to note here -- important to





September 25, 2007

1 note -- that the priorities and performance measures as outlined not only reflect the  
2 dialogue that we have continued to have with the community, but really also the breadth  
3 of interest and knowledge that we have here on the Council. There is a little bit of  
4 language change in the Resolution specific to certain areas of concentration; but, again,  
5 I think it's a wonderful reflection of the collective interests that we all have here on the  
6 Council. And I would ask at this time that my colleagues support the Resolution as  
7 proposed, the language as proposed.

8  
9 Council President Praisner,  
10 Councilmember Leventhal?

11  
12 Councilmember Leventhal,  
13 Well, I'm going to play my customary role of curmudgeon.

14  
15 Council President Praisner,  
16 Okay, curmudgeon. [Laughter]

17  
18 Councilmember Leventhal,  
19 I'm looking at Circles 61 and 62 of the memorandum that we got with our packet, and I  
20 am not certain whether this language provides anything at all that County departments  
21 are really going to find will find specific or directive or of much real value. So I am  
22 always grateful for the hard work of my colleagues on the MFP Committee, and I'm glad  
23 I'm not on it.

24  
25 Council President Praisner,  
26 Thank you, George. We miss you.

27  
28 Councilmember Leventhal,  
29 Let me say, I mean we've done this now three years in a row. The County Council has  
30 gone through this exercise for three years, and I was concerned on the first go around  
31 that community members were being misled -- that they were taking a great deal of time  
32 and effort to relay to us thoughts that were going to be end up being incorporated into a  
33 document like this one which would be very general and not really responsive to their  
34 thoughts. I will say in the third round that I've mellowed a lot -- both as a human being  
35 but also with respect to this. Because I think, as I recall the discussion we had in this  
36 year's budget with a lot of councilmembers who had recently been elected, it's okay to  
37 begin the conversation now. So the public hearing, I thought, was actually useful and  
38 more useful than I thought it was before insofar as people are just sharing with us their  
39 thoughts about what should be in the budget; and we can't have too many of those  
40 conversations. So I thought the public input was fine. But, I'm sorry; I have to question  
41 the utility of this exercise. I mean I'll vote for it; I can't vote against it. But to say that our  
42 priorities in alphabetical order are affordable housing, education, the environment,  
43 health and human services, infrastructure, public safety, and tax relief and fairness --  
44 what are we really saying? I mean we have six committees here on the Council; they're  
45 all important. Everything's pretty much equally important. We know how to alphabetize,  
46 but what have we really said here?



September 25, 2007

Council President Praisner,

Well, let's leave that question for councilmembers to comment on -- Councilmember Trachtenberg, and I'd like to comment at some point -- but Councilmember Trachtenberg wanted to comment as Chair of the Committee.

Councilmember Trachtenberg,

Well, George, I understand where you're coming from. I happen to be one of those new people here; and, you know, I look upon this as a guideline. And perhaps if there is an issue around public misinterpretation, it's precisely that -- which is that there are some general areas that we have attempted in recent years to focus on within the budget document. And the action part of this Resolution, I think, really just speaks to some of those categories in perhaps a more specific way. I understand the fact that a budget is a living document and that it evolves and what's there on paper two years ago isn't necessarily on paper now. We did discuss this very briefly within committee. I appreciate the fact that you would not vote against it; but what I would ask at this point is, What do you think that we could do to make the exercise more meaningful? And perhaps that's not a conversation to have this afternoon. But I would invite you to the MFP Committee, and I'd be very happy to hear from you and colleagues about what you think we could do to actually make it more productive, and more inclusive.

Council President Praisner,

Well, let me just say on that issue that given the tight schedule that we have -- both Mr. Leventhal has and others -- I'd like to suggest that to the extent the Committee Chair raises that issue, and it may be an issue that is shared by other councilmembers at this point, the question of reviewing the priority-setting process may be one that we want to ask the MFP Committee and other councilmembers to get engaged in for a look-see, but separate from the discussion on the item in front of us today if that's okay with you. George, I think you invited that kind of approach in your comments. Sure, go ahead.

Councilmember Leventhal,

I have a high regard for all of my colleagues, and I have a high regard for the Council Vice President whose idea this was initially. And he will have my support to become Council President next year. And my suggestion to him is that if -- the public input, I like. I think it's nice. The more of it, the more spaced out through the year we do it, I'm all for that. So more public input on the budget, you bet. More nights of having us here listening to testimony, I'm all for that. This exercise I might collegially and courteously suggest we might not do, because I'm not sure that the juice is worth the squeeze -- next year.

Council President Praisner,

Thank you. Council Vice President Knapp?

Council Vice President Knapp,

Thank you, Madame President. I hear very clearly what you're saying; and I'll be honest as the primary sponsor of this a couple years ago, it has not done all that I had hoped that it would do either -- the initial premise being that we tend to get our budgets in -- we



September 25, 2007

1 get what the County Executive has recommended in March. And then we have a big  
2 flurry of activity for a couple of months, and we tend to descend upon the departments  
3 and agencies with our various thoughts and priorities during that two-month period. And  
4 the idea was to be able to -- after having gone through a budget process and having  
5 then digested what we've just gone through through the summer, to then be able to give  
6 some guidance to the departments and agencies as they're beginning to formulate their  
7 budgets to say, Gee, we wished we had spent more time looking at certain issues. Or,  
8 we think that this is something that we didn't give the right amount of attention to in this  
9 past previous budget, and we'd like to be able to give some guidance to -- that this is  
10 going to be important when you come back next year. And I don't think that we've quite  
11 achieved that yet, but I think the discourse of talking about the budgets in a more year-  
12 long fashion I think is important. And so I appreciate your comments about trying to do  
13 something that engages in that in the fall -- perhaps not through this exercise. The  
14 Education Committee actually tried to go through and, to be fair, did we hone in and  
15 say, "This is going to be the issue"? No, but we did spend time yesterday going through,  
16 especially with Montgomery College, looking at what they've already begun to see as it  
17 relates to budget cuts from the State, and say that access for students at Montgomery  
18 College is probably going to be among the top things we're going to have focus on for  
19 the College next year and begin to give that kind of guidance, and what are some of the  
20 strategies we can use to do that. As it relates to MCPS, where it's significantly larger,  
21 we've identified a continuation of themes that we could begin to fund from last year's  
22 budget, looking at the achievement gap -- looking at expansion of Pre-K services. And I  
23 think that those are things, in varying degrees, we're going to be able to continue to do;  
24 and I think most people are committed to them. But I hear you very clearly, and I think  
25 that's something that we need to step back and look at. Is there a way for us to give real  
26 guidance to the Department and Agencies as they're generating their budgets? Or is it  
27 more engaging in the discourse in the fall so that we are providing more feedback, so  
28 that we're better prepared when we take on the full budget analysis in the spring? And I  
29 welcome that discussion in the coming months.

30  
31 Council President Praisner,  
32 Councilmember Floreen?

33  
34 Councilmember Floreen,

35 Thank you. I agree with George quite simply. I cannot remember a budget worksession  
36 over the past couple of years where someone said, "Well, let's go back to the budget  
37 priorities we established in the fall and see how this lines up." We could say that; but it  
38 would be -- everything would be equal because let's admit that this Resolution is very  
39 supportive of motherhood and apple pie and everything we all care about, which is  
40 everything. I think that is the challenge of this. In some jurisdictions I know they will say  
41 this is the year, or this year we're going to focus on transportation, education, climate  
42 change, pedestrian safety. I think you can do that perhaps in more narrow environments  
43 than the ones that we face. And so I would second George's comments on thinking  
44 about whether this is really a useful conversation in a generic sense, particularly right  
45 after the summer break where the community isn't really thinking about these issues.  
46 What we might want to do at the end of a budget conversation in the spring is actually



September 25, 2007

1 agree as part of a budget resolution -- as we theoretically do with the Growth Policy -- is  
2 identify a couple particular priorities that were unresolvable in a budget session and  
3 identify them publicly and for the County Executive as major priorities to be looked at in  
4 the future. We might have done that, say, with infrastructure financing this year or  
5 something along those lines. But I think it's nice to have people here. We enjoy listening  
6 to them, and we move many pieces of paper around on this subject. But this isn't  
7 specific, and it isn't directive. And it is a nice statement, but really not a meaningful one;  
8 and I think it warrants some attention as to whether in its current form, it's useful. So  
9 let's give some -- perhaps this would be a retreat conversation this year.

10  
11 Council President Praisner,  
12 Councilmember Elrich?

13  
14 Councilmember Elrich,  
15 I would align myself more or less with George and Nancy's comments, but a couple of  
16 things that occurred to me. One is that when we were doing the budget, we talked about  
17 how little of the budget was actually in play. So to say that you've got a priority -- or  
18 somehow we're going to be the year of this or the year of that -- unless you're going to  
19 fundamentally, radically shift how you're spending money, saying we're the year of  
20 anything is kind of like, "Well, we're going to spend a little more money here than we  
21 normally have spent there." It's less traumatic, and I think less important than some of  
22 the gravitas around setting these priorities would have -- some people might want to  
23 believe. But my other concern is that I am one of the people who believed in having an  
24 ongoing discussion about the budget; but I didn't view that as simply a night of people  
25 coming in or writing us and saying, "These are our budget priorities." I was really hoping  
26 that not just the Council giving direction to the Executive, but that the Executive in  
27 conjunction with the Council would spend time looking at how programs are operating --  
28 whether they're achieving the objectives that we want them to achieve, so that when we  
29 get into the budget, we can decide whether there is really more to move around than  
30 just the marginal increase from this year to next year. But is there anything that we're  
31 doing that we ought to do better? Does the community have anything to offer us about  
32 the wisdom of the choices we've made or the things we haven't chosen? And that's the  
33 discussion I would really like to have, is engaging the community. And how is what  
34 we're doing working? And engaging the Executive as a partner in this. Not giving them  
35 directions and saying, "These are our priorities; deal with it." But I think we all agree  
36 about the priorities. So the question is, Are we delivering them as effectively as we can?  
37 And that's what I would like to get out of the public process and out of working with the  
38 Executive.

39  
40 Council President Praisner,  
41 I'm going to comment before I call on Vice President Knapp to comment. I think all of  
42 my colleagues' comments are right on target from a standpoint of: Okay, we've tried this  
43 approach; but how do we refine the issue or narrow the issue? I actually think the  
44 survey, once we get it back from the public, will help us to say what their view of -- and  
45 it's the general public, not the advocacy groups, whatever they may be -- will be able to  
46 tell us what we're doing well and what they think we're not from a standpoint of where



September 25, 2007

1 we might focus some effort. I actually think that indirectly the Council does send  
2 messages that are not topical or programmatic, per se, but are more related to what we  
3 might want to see from an action or an integration perspective. We talked about across-  
4 department focus on budgetary initiatives, like the gang intervention issue which we will  
5 get a presentation on soon and have some dialog around, questioning how we measure  
6 and how we monitor what may be found in disparate departments but is a priority, per  
7 se. We've talked about infrastructure maintenance issues, and that's been a Council  
8 initiative for the years in which it's been in place from a standpoint of focusing either  
9 additional resources or prioritizing current resources. We've talked about environmental  
10 issues. This is clearly a Council that's anxious to focus attention and interest on greater  
11 progress on environmental issues. So those are broad topics that have a reflection  
12 within the budget, but I actually think we're not using the community input as well as  
13 perhaps with the combination of the survey may be able to help us; because in  
14 Montgomery County, if you ask people what their priorities are, they tend to be talking  
15 about add-ons, not focus with existing resources either. So, the question isn't, "If we  
16 didn't have as much money, what must be in the budget in your view?" Or, "What do we  
17 need to have beyond the basic kinds of things?" -- which, as Marc says, have to be  
18 there; and we don't really get a choice about -- we may be redirecting them; but we're  
19 rearranging things, not really structuring them. So I think Nancy's comment -- or  
20 somebody's comment about using the retreat for a piece of this conversation -- using  
21 the survey -- may be extremely helpful in helping us to grapple with this issue in a more  
22 useful way, both for the community and for the Council. Vice President Knapp?

23  
24 Council Vice President Knapp,

25 Thank you, Madame President. And just one final observation, and I don't disagree with  
26 the comments that have been made so far. I guess the one point I would raise, though,  
27 is we make those comments as though we are somehow subject to a variety of whims.  
28 And, yes, we are to listen to the people; and that's a critical part of the process. But if we  
29 choose to do it differently, there are nine of us here who can choose to do it differently;  
30 and I think that's important for us to remember. And we look to the County Executive for  
31 him to provide some guidance as to what he sees his priorities as being. And I think we,  
32 as a body, have a similar function. I think Marc has identified a key point where he says,  
33 We tend to work on the margin; if we want to make a big change, that's something that's  
34 going to have happen well in advance. And that doesn't mean we couldn't go down that  
35 road if we chose to, but it's up to us to actually decide to do that. And so I would hate to  
36 have for us to appear as though there's some other force that's acting upon us that  
37 keeps us from really honing in on some priorities. Sure it would be difficult. Yes, it would  
38 be a tough conversation to have; and certainly we would engage folks. People would  
39 pay attention if all of a sudden we said, "We're going to reorient the budget in a totally  
40 different direction." But it's certainly within our discretion to have that dialogue. And so,  
41 yes, I agree; but I think it's important for us to remember that we can still engage in  
42 some tougher decisions sooner in the process if we chose to.

43  
44 Council President Praisner,

45 Let's go to Councilmember Andrews, who hasn't spoken; and then the last word will be  
46 the Chair of the Committee's.



September 25, 2007

Councilmember Andrews,

Thank you, Madame President. I think this has value. Yes, it does tend to be broad; although I will note there are some differences between what the County Executive recommended as priorities and what the Council is recommending. There is a substantive difference there on a couple of things. In terms of what our priorities were for this year, we did approve an unprecedented recommended increase by County Executive Leggett in the Housing Initiative Fund of \$10 million for Affordable Housing. And so that's certainly one that was followed through on very strongly. And we provided a large tax credit, \$613, which is the largest we've ever provided under the Tax Relief and Fairness. So I think it does have an impact on what we do, and it signals to the community where we're looking. The priorities don't include everything that people who've come and testified before us at different occasions would like to see on there. So while there are broad categories, not everything that people have testified for is on there. Choices are made and things change, sometimes just at the margins; but over a period of years, you can see significant change, I think. And we already do have some differences in emphasis between the County Executive's and ours. So I think it's useful, and we don't know what we're going to hear from the public from year to year; so I think that part is always helpful.

Council President Praisner,

Okay. Councilmember Trachtenberg?

Councilmember Trachtenberg,

I appreciate comments from colleagues. And one thing that comes to mind as I'm sitting here is, if we are going to have a conversation during our retreat process around budget priorities, given the activity over on the Executive level around a results-based budget program, and that is something that is being discussed, and actual training is going on at this very moment. So it would seem to me that if we are going to look at this during the retreat, that's something that we need to have an update on and a full understanding on in terms of actually, "Is it a program that's being implemented across departments, and how does that play into the performance measure conversation?" which Marc raised, which is a very valid conversation. In fact, the Resolution that we have before us -- if I were really going to critique it, I would say that's the part that's most lacking and certainly the element that I have a firm interest in. And I know there are other councilmembers that have that interest as well. So I'm just making a suggestion that when we go to revisit the issue at our retreat, I would ask that that be put on the agenda.

Council President Praisner,

I want to be clear that what we're talking about is not revisiting the priorities for this year, but reviewing the approach to a budget priority fall discussion or crystallization -- however we want to call it. But we're not talking about changing the priorities that we will be adopting right now. All in favor of approval of the motion in front of us from the Committee, please indicate by raising your hand. [Show of hands] It is unanimous. Thank you. We will now move into District Council Session. We are introducing Zoning



September 25, 2007

1 Text Amendment 07-14, Ripley/South Silver Spring Overlay Zone – Development  
2 Standards, sponsored by Councilmember Ervin. I need a motion, Councilmember Ervin,  
3 on the Resolution for a Public Hearing on October 30th at 1:30 p.m.

4  
5 Councilmember Ervin,  
6 So moved.

7  
8 Council President Praisner,  
9 Moved by Councilmember Ervin, seconded by Councilmember Trachtenberg. All in  
10 favor of adopting the Resolution on the Public Hearing? [Show of hands] That is  
11 unanimous. Folks, we are now going to move to the third floor after your agreement or  
12 consent to a proposed Closed Session to consider a matter that concerns the proposal  
13 for a business or industrial organization to locate, expand, or remain in the state  
14 pursuant to Maryland Code State Government article 10-508(a)(4). The topic is Silver  
15 Spring Development. Is there a motion?

16  
17 Councilmember Ervin,  
18 So moved. Councilmember Ervin. Is there a second?

19  
20 Councilmember Trachtenberg,  
21 So moved.

22  
23 Council President Praisner,  
24 Councilmember Trachtenberg. All in favor of the motion to go into Closed Session?  
25 [Show of hands] That is unanimous. We will move to the third floor conference room;  
26 and at 4:00 p.m., we will be on the third-floor hearing room for a discussion with State  
27 and Planning Board officials on the environmental impacts of the ICC. Thank you.  
28 [Break] Well, it's after four o'clock by that clock. It's before four o'clock upstairs on  
29 another clock, so one never knows what time it is. But I think we can begin. I know I  
30 have councilmembers in different rooms based on different meetings. Councilmember  
31 Leventhal will not be able to join us; he's in class at this point. So far, I expect other  
32 councilmembers for this discussion. I want to make a couple of comments before we  
33 begin, and then I'm going to turn it over to Mr. Pedersen and ask folks at the table first  
34 to go down and introduce themselves. I've had a lot of questions asked of me since I  
35 put this item on the agenda, and I want to be clear about the agenda. When I tell people  
36 what the agenda's about, folks, I mean it. And I find it a little amusing that I've been  
37 approached by so many proponents of the Intercounty Connector within the last week or  
38 so, questioning my intent and the integrity of the statement on the agenda. This is a  
39 discussion of the environmental issues associated with the Intercounty Connector. As  
40 I've told my colleagues and I've told others, there is no vote. This is a discussion of  
41 these issues related to the Intercounty Connector. As a letter sent to the Planning Board  
42 by seven of the nine councilmembers indicates, there are ongoing and significant  
43 questions by councilmembers about the management and the enforcement and the  
44 components of the environmental issues associated with the Intercounty Connector.  
45 There are different views on this Council about the Intercounty Connector. I would say  
46 this is a strongly divided Council on that issue. This is not a meeting to have individual



September 25, 2007

1 councilmembers indicate their views, either to reaffirm their view or to identify a new  
2 view. Councilmembers are free to do that at any point in time; they are big boys and  
3 girls. But whether you are a proponent of the ICC or an opponent, which I readily admit I  
4 am and continue to be, there are responsibilities for our Planning Commission and  
5 responsibilities by State Highway to ensure that this road meets the PR that has been  
6 put out about it related to the environmental issues. This is the most sensitive  
7 environmental area in the County as far as our identification of the Special Protection  
8 Area. The headwaters of major streams in the County exist through which or where the  
9 ICC is programmed to go. The monitoring of the construction of a design-build project is  
10 complex to begin with – made even more complex by the sensitivity of the land of which  
11 we're talking. The Council's letter, again, signed by seven of nine councilmembers,  
12 proponents and opponents alike, raises significant questions to the Planning Board  
13 about their role in the process. And that doesn't mean one staff person; it means the  
14 Planning Board and the staff. And we will, as a Council, as long as I'm President,  
15 continue to monitor these issues. I will not deny nor will we ignore the fact that there is a  
16 lawsuit; but that is not in front of the Council this afternoon. What transpires in that  
17 lawsuit is up to the judge; and different people will tell it to the judge. But at this point,  
18 the Council wants things told it related to the environmental issues. So no matter where  
19 you are on the project, we want to look at the environmental issues in the construction,  
20 the oversight, the preconstruction, and the quality of the decisions associated with that.  
21 And it is with that in mind that I asked both State Highway and Park and Planning to be  
22 present this afternoon, and specifically asked for Park and Planning Environmental Staff  
23 to be here. With that in mind, I will ask Neil Pedersen and folks from State Highway to  
24 identify themselves and to make whatever introductory comments you want to make.  
25 We have little over an hour for this conversation. I would like to make the majority of the  
26 conversation related to councilmember questions. And to the extent the questions  
27 require comprehensive or longer answers, I would prefer them come in writing at some  
28 point or in a follow-up discussion than having an inability for councilmembers to get their  
29 questions on the table. With that as guidance, Neil, welcome; good to see you again.

30  
31 Neil Pedersen,

32 Thank you, Madame Chair. It's a pleasure to be here. For the record, my name is Neil  
33 Pedersen; I am the Maryland State Highway Administrator. And I have with me today  
34 Melinda Peters, the Project Director for the Intercounty Connector; and Robert Shreeve,  
35 the Environmental Manager for the Intercounty Connector as well. We, based on the  
36 conversations that we've had, are prepared to relatively quickly go through and update  
37 you on three specific items. One is a quick overview on what the project status is.  
38 Second is getting into a more in-depth discussion on what the environmental  
39 monitoring, environmental oversight, and environmental management process is that  
40 we have in place. I do have to say that we -- this is the second mega project that we  
41 have been managing in the last few years. And we learned a lot of lessons from the  
42 Woodrow Wilson Bridge which we have applied to this project; in fact, I would say the  
43 eyes of the nation were on the Woodrow Wilson Bridge environmental management  
44 process. And we will be applying many of those on this as well. And then the third item  
45 is talking about environmental stewardship projects, which I know are of considerable  
46 interest as well. We went considerably beyond what would have been required under





September 25, 2007

1 federal and state environmental statutes and regulations in terms of environmental  
2 projects that were offered. And we will quickly go through the scope of those as well. So  
3 with that as the scope of what we intend to present to you, I'm going ask Melinda Peters  
4 if she'll fairly quickly go through and update you on the status of the project.

5  
6 Melinda Peters, Good afternoon. I'm going use what we term as our "rainbow map" --  
7 which I believe was in all of your packets, and we have a larger display if necessary --  
8 just to give you a quick update on where we stand on the project itself. It should have  
9 been handout number 1 in the packet. We have broken the 18 miles of the ICC down  
10 into five design-build contracts. And Councilmember Praisner, as you noted, design-  
11 build is how we are procuring and administrating these five contracts. That gives us the  
12 opportunity in its design-build best value to select not just paced on price, but on the  
13 technical merits and technical requirements for these contracts. And we've broken the  
14 project into five contracts to be able to focus on specific environmental criteria for those  
15 specific watersheds or areas. We're able to then focus and allow the design-builders to  
16 propose on technical information, answer questions about how they plan to administer  
17 their environmental compliance program, their environmental training program, and how  
18 they plan to monitor and track the commitments that we have in the Record of Decision.  
19 Are there more handouts needed? Okay. As you'll see from the rainbow map, we've  
20 labeled each of the contracts, labeled "A" through "E." And the way the project is broken  
21 down, Contract A is the westernmost section of the project from I-370 to Maryland 97.  
22 As you'll see here on the map, we have issued a Limited Notice to Proceed for that  
23 contract. We selected intercounty constructors this past spring based on the fact that  
24 they were the highest technically rated. They had a very high rating for their  
25 environmental section of their technical proposal, and they actually were the successful  
26 proposer on that contract. The schedule for that contract is that we anticipate issuing  
27 construction notice to proceed this fall, and the project is scheduled to be complete in  
28 late 2010. As you head east on the map, Contract B is the center segment of the ICC,  
29 between Maryland 97 and US 29. That is actually the third project in the procurement  
30 phase, and I'll explain that in a second. So the next contract, which we are in the middle  
31 of procurement on right now, is actually Contract C. That is a segment between US 29  
32 and I-95, and that segment is the longest construction duration contract. We anticipate  
33 issuing construction Notice to Proceed on that contract at the end of this year, and that  
34 will be completed by the end of 2011 or early 2012. That's about a four-year  
35 construction contract. The next project we have just initiated the procurement process  
36 on is Contract B. That's the segment between, again, 97 and US 29; and we anticipate  
37 a Notice to Proceed on that contract by next summer. We then have two smaller  
38 contracts in Prince George's County: Contract D, which is collector/distributor roads  
39 along I-95; and Contract E, which connects the segment between 95 and US 1. And  
40 those are scheduled for much later in 2009 and 2010. So as I've mentioned, the  
41 Contract A is the current contract. We have a contractor on board. They are currently  
42 designing. They are working through some geotechnical analysis at this point and  
43 survey work. As a matter of fact, later this week they will be initiating the identification  
44 and location of box turtles in some of the sensitive watersheds, and we will be tagging  
45 those box turtles so that we can relocate them once construction activities begin late  
46 this fall. That's a brief overview of the five main contracts. I also do want to note that



September 25, 2007

1 when we get into a discussion on the mitigation stewardship projects, we have actually  
2 completed our first wetland creation project. That was four acres in the northwest  
3 branch watershed, and that wetland creation project was completed this past summer.  
4 And we will be monitoring that, as with all of our projects, for the next five years.

5  
6 Neil Pedersen,

7 Okay. Unless there are specific questions you have on the status of the project –

8  
9 Council President Praisner,

10 I think I would like to move through the presentations and then get to the questions, so  
11 we don't have something hanging that you haven't had a chance to discuss.

12  
13 Neil Pedersen,

14 Okay. The second part of our presentation is, as I said, going to be on the  
15 environmental oversight/environmental monitoring/environmental management portion  
16 of the project. Rob Shreeve is our Environmental Manager for the project. And I know  
17 part of what you were interested in and what part of Rob will be talking about is what the  
18 role is of the Planning Board Staff in this process as well. This is a project that obviously  
19 has very significant involvement on the part of a number of Federal environmental  
20 resource agencies, State environmental resource agencies, as well as County  
21 environmental resource agencies. We have set up what we call an "Interagency Work  
22 Group" that we work with on a regular basis, and Rob will get into more of the details on  
23 that in terms of coordination on this. Because a big part of the decision-making on the  
24 environmental side and management side of that is trying to manage obviously the very  
25 specific interests of the number of different environmental resource agencies and  
26 making sure we're reaching consensus as much as possible. So with that -- Rob.

27  
28 Rob Shreeve,

29 Good afternoon. I'm Rob Shreeve. I am the Environmental Manager. I run the  
30 Environmental Management Team for the ICC project.

31  
32 Council President Praisner,

33 Is this on (mic)? It's on.

34  
35 Rob Shreeve,

36 If you can't hear me, that's –

37  
38 Council President Praisner,

39 We've been having a challenge with the microphones; not for the Council, but for the  
40 audience. So it's on. Go ahead.

41  
42 Rob Shreeve,

43 Okay. The environmental management of this project revolves around, I guess, four  
44 different groups. The planning process started with a group that we call the Interagency  
45 Working Group; and it is comprised of just about every federal, state, and agency that  
46 you can imagine: the Corps of Engineers, Fish and Wildlife, EPA, Park Service, and



September 25, 2007

1 then MDE, DNR, Maryland Planning, MHT, and State Highway, Federal Highway, and  
2 MDTA, along with Maryland National Prince George's County, Maryland National  
3 Montgomery County, Prince George's DPWT, and Montgomery County DPWT. This  
4 group was involved for three and a half years -- evaluating the whole planning process,  
5 evaluating all the different alternates -- and then we carried those folks into the design  
6 process, which is kind of a new territory for these projects. We meet on a monthly basis,  
7 and we go over the status of the project -- what's happened the last 30 days, what's  
8 going to happen the next 30 days. The Environmental Management Team itself for the  
9 ICC project is me and about 40 other folks -- all of which have various experience levels  
10 and different disciplines. I'm a biologist. We have landscape architects, foresters,  
11 historians, archeologists -- you name it. Maryland National has a representative that sits  
12 on the Environmental Management Team. He works with us. He shows up at all of our  
13 meetings, and it's his role primarily to be a liaison. I'll let Maryland National speak more  
14 to that. We work with Maryland National Staff on a regular basis on all the issues that  
15 come up. We also have MDE and the Corps of Engineers. Because of their regulatory  
16 role, they have an Independent Environmental Monitor who is also part of our  
17 Environmental Management Team. He reviews the plans as the design goes on, sits in  
18 on the IAWG meetings and contributes, looks at the mitigation and stewardship projects  
19 as those plans are developed. And then the design-builder is required to have an  
20 environmental compliance team. That team is structured very similarly to the ICC  
21 project's Environmental Management Team. But they have the primary role of making  
22 sure that the designs, and then following that, the construction are done in compliance  
23 with all of the permit conditions, the Environmental Impact Statement and ROD  
24 commitments, and any other commitments that we require of them to do. They review  
25 and work with their designers and their contractors, and then we review on top of that.  
26 We included a couple different versions of flow charts -- one that looks like a five-  
27 spotted dice. It has the Environmental Management Team as being the coordinator of  
28 all kinds of issues between all the different agencies. Some of them have a direct  
29 coordination role with each other, and sometimes we are the hub of that information.  
30 We do work through the Interagency Working Group to make sure that they --  
31 everybody that's involved in this project, all agencies -- understand what is going on.  
32 And then as needed, we can have little side meetings that reflect specific special  
33 interests of any different agency involved. This process involves engineering,  
34 environmental, and the design-builder from the ICC project and is very much an over-  
35 the-shoulder review process. We are involved in conversations with the design-builders  
36 as they go through all of their designs. We make sure that they understand that, Can  
37 you tuck in a little bit here, and can you weave a little bit there? -- as they go through  
38 their design process. And we try to make sure that they understand how we came up  
39 with the commitments that we have -- both in the permit conditions and in the ride -- and  
40 what the significance of that is and what the underlying issues were, and make sure that  
41 they're fully apprized of all that. Do you want to talk about the mitigation now?

42  
43 Neil Pedersen,

44 I guess I'd say maybe -- we had talked about how we might present this information,  
45 and we'd like to talk about our organization a little as well. Royce, did you want to say a  
46 couple of words before we --



September 25, 2007

Royce Hanson,

I only want to point out that Dan Hardy has been the coordinator for the Planning Board with respect to these matters. Kyle Spendiff, next to him, is the on-the-site person who looks at these matters. And Mary Dolan and the Environmental Staff on the planning side have been involved in the working out of many of the arrangements. And we've got people from the Parks Department here as well who have been involved in many of the individual situations in working through specific issues as they come up. But probably the easiest thing to do is let Dan take you through the role that Planning Staff and Park Staff play in the matter.

Dan Hardy,

Great, thank you.

Council President Praisner,

As briefly as you can, Dan, so we have time for Council questions.

Dan Hardy,

Sure. You know that I can get started talking.

Council President Praisner,

Yeah. [Laughter]

Dan Hardy,

For the record, Dan Hardy, Transportation and Planning. I am the ICC Coordinator. I'd like to direct to your attention to Circle 12 in your packet which shows our project organization chart with both the Planning Department and the Parks Department working together through our management structure and the Planning Board. The important work on this org chart really takes place at the bottom. The real key is there is a lot going on; and we've got a lot of good folks, and there are a lot of other agencies with a lot of good folks. So the important thing is informal and frequent correspondence among the technical experts and all the disciplines that we've got out there in the field. In the center of the org chart is where all that information comes together. We have targeted -- Kyle Spendiff, our Environmental Project Monitor, is a member of the State's Environmental Management Team. That is the one way in which Park and Planning, through MOU with the State Highway, is a little bit different than the other County agencies. I did want to mention that part of that informal coordination does involve coordination with DPWT, with DEP, and DPS; so other County agencies are involved in the review on the ICC as well. George Valaderes and Mitra Pedowin do the coordination with the Planning and Parks Departments; and my job is to take that coordination and communicate consistent messages to State Highway Administration, going via our Planning and Parks Directors and the Planning Board when warranted so that in all of the different ideas and initiatives we have, we coordinate seamlessly with the State. That's, essentially, our org chart and how we communicate internally, both informally and formally, as well as how we work with the Planning Board. The next page, Circle



September 25, 2007

13, gets at one of the questions that I know is of great councilmember interest, which is that in our 1989 MOU there is a discussion about the Independent Environmental Monitor – our Ecological Project Manager -- having the ability to halt or modify construction. We've talked with the Planning Board and with the State Highway Administration about this a lot. This chart, Circle 13, is our discussion with the Board in February of this year where we said there's a hierarchical process to halt construction or modify construction. Frankly, this is the State's ICC project. The only place where we have the authority to directly halt construction is if they were to encroach on our park property where we are the park owners. Other than that, we have an advisory process; and we believe that we have the ability to influence both the progress and the direction of construction through our role on the Environmental Management Team. So if there is encroachment on park property, there is a series of steps for each case. The first thing to do is if there is any damage being observed is to stop it as quickly as possible. We have that role; the State has that role; the Corps of Engineers and MDE have their independent monitors that also have that first intent. The second thing is then to work on addressing the problem and moving forward. In terms of modifying construction, this is where we have done a lot of our work. And we've had a lot of success stories, I think, in terms of looking at both participating in the Interagency Working Group as well as working with State Highway Administration and Federal Highway Administration to make changes, the most recent of which was a proactive design change that we took to the Planning Board the first week in September to change the limited disturbance in the Upper Paint Branch Special Protection Area so that we could make use of an existing stormwater management pond, change the parkland boundaries - which requires both the Planning Board concurrence and then Federal Highway Administration concurrence. And in doing so, we're saving about three acres of forest from that in the Record of Decision. So we also -- at the very far right of this chart -- have a similar way to in the field do things like work on the fly, as it were, in terms of the best way to get equipment in and off of a particular work site. So that really summarizes both how we're organized structurally and how we're working both with our own folks and with the State's team on day-to-day activities.

Council President Praisner,

Okay. You have magnifying glasses for the last page of this package, I assume?

[Laughter] Magnifying glasses, I think, are in order.

Neil Pedersen,

Madame Chair, very quickly -- because I think this could take the entire time -- I will ask Melinda and Rob to go over the environmental stewardship projects, just the nature of them. You can see from that map that there are many, many of them. We're not going get into all of them, obviously. But before we do that, I think a key role that I would like to ask either Melinda or Rob to talk about is we have an independent environmental monitor as well that, although contracted by the State, has a great deal of independence and is actually obligated to be reporting to the regulatory agencies at the same time that they report to the State Highway Administration any problems that they observe.

Rob Shreeve,



September 25, 2007

1 The Independent Environmental Monitor is stipulated in the MDE and the Corps permits  
2 as being basically an extension of their operations. Our independent environmental  
3 monitors on this project -- because it probably will be more than one at any given time  
4 because of the magnitude of the project -- will file a daily report with MDE and the Corps  
5 of Engineers on what the operations are on a day-to-day basis, including any corrective  
6 actions that need to be taken and what good things we're doing, hopefully.

7  
8 Neil Pedersen,

9 I want to be emphasizing because I don't think we can underestimate the significance  
10 and role of that Independent Environmental Monitor on some of our most sensitive  
11 projects that we have had elsewhere, including the Woodrow Wilson Bridge and  
12 including the Salisbury Bypass. That really has played a key role in terms of ensuring  
13 that you have that independent set of eyes that are out there and are reporting directly  
14 to the permitting agencies as well. So very quickly, because the councilmembers do  
15 want to be able to ask us some questions, just talk about the nature of the  
16 Environmental Stewardship Project.

17  
18 Melinda Peters,

19 I'm just very quickly going provide a summary, and then Rob's going to provide some  
20 quick background on how these projects were selected and identified in the Record of  
21 Decision. Just to give you an idea of the magnitude, there are over 50 individual  
22 mitigation and stewardship projects that are part of the ICC. And what we're saying is  
23 that projects above and beyond what is required by the permits for mitigation of impacts  
24 -- we have stewardship projects that include things like additional wetland creation,  
25 stream restoration, fish passage projects, stormwater management retrofit projects in  
26 some of the very sensitive watersheds like the Paint Branch -- and Rob will talk about  
27 some of the specifics on those -- reforestation, and then additional parkland mitigation  
28 projects. We also include sidewalk projects, bike trail construction projects, and an  
29 historic structure modification and partnership with Park and Planning. Rob, do you just  
30 want to talk in general about the selection?

31  
32 Rob Shreeve,

33 We worked with all the federal, state, and local agencies -- drew from I think there was  
34 about six or seven watershed-wide studies that were done both by DEP and DPS folks  
35 from around Montgomery County -- and also the Corps of Engineers; and DNR had lots  
36 of information, especially on trout studies and macro invertebrates, plus some of the  
37 studies that we've done for other projects. We worked with all of the County agencies  
38 and the Maryland National and all the state and federal agencies to whittle a list of  
39 about 950 projects down to a dull roar of a couple hundred. And then went out on field  
40 visits with everybody so that they could see the sites, see the problems, look at how  
41 they fit into the needs that were identified in each watershed, and then prioritize the  
42 projects as ones that were most needed all the way down to ones that could wait until a  
43 later day. From that, we developed our mitigation package. We developed our  
44 stewardship package. And we developed a list of backup sites. If we determine a site is  
45 not feasible for technical reasons, then we will go to the agencies -- all the experts that  
46 sit on our IAWG -- explain to them what the issues are and move through the backup list



September 25, 2007

1 to find a site to replace it that meets the needs of that watershed. So in this way, we  
2 have sort of a constant level of environmental enhancement.

3  
4 Neil Pedersen,  
5 Thank you.

6  
7 Council President Praisner,  
8 Okay. Any other comments that the Park and Planning has?

9  
10 Dan Hardy,  
11 Nope. I think we're looking forward to answering questions.

12  
13 Council President Praisner,  
14 Councilmember Andrews.

15  
16 Councilmember Andrews,  
17 Thank you, Madame President. Thank you all for coming. I appreciate all the talents that  
18 you all bring to the table and your professionalism. But I have to say that if  
19 environmental stewardship were the priority regarding policy, this would never be built.  
20 What you're talking about is mitigating damage from a project that goes through multiple  
21 stream valleys and through mature forests; and it simply is not a highway that can be  
22 built in an environmentally sound way. So you're starting at a great deficit. I was reading  
23 the Washington Post this morning -- as I normally do with a bowl of cereal on top -- and  
24 I saw an editorial -- I used to deliver their papers -- well, and I saw an editorial on the  
25 price of carbon, talking about global warming and the effects of the buildup of  
26 greenhouse gases staring everybody in the face, that the National Snow and Ice Data  
27 Center has reported that the Arctic Ocean icecaps shrank so much -- much more than  
28 average this summer -- that it lost territory roughly the size of Alaska and Texas  
29 combined. And to continue to do nothing in the face of this grim reality is not acceptable.  
30 I will add that conspicuously absent from the Post editorial was any mention of the  
31 Intercounty Connector. In the same section of the Post, I read: "The UN Chief calls a  
32 real breakthrough in climate change that a 15-year international effort to stem global  
33 warming has not halted the buildup of greenhouse gas emissions and that government's  
34 must take 'unprecedented action' to reverse the trend." And then I happened to get an  
35 e-mail this morning that there's a public hearing tomorrow before the Senate  
36 Environment Public Works Committee that Senator Cardin has helped put together. And  
37 Senator Cardin has warned that Maryland, particularly the eastern shore, is vulnerable  
38 to increased flooding if global temperatures continue to rise. And then I see that  
39 Governor O'Malley is one of the people to testify. And I sure hope that the governor  
40 won't miss this opportunity to recognize the 800-pound ICC bull in the global warming  
41 china shop and address it and do what he can, through a stroke of his pen, to take the  
42 single most effective action he could take to address global warming in Maryland;  
43 namely, canceling the project. But if that doesn't happen, and maybe it won't, I do want  
44 to understand what the State's consideration was of the ICC's impact on greenhouse  
45 gas emissions; because the FEIS identifies a significant increase in vehicle miles  
46 traveled with the ICC -- about a 20 percent increase in the ICC study area, an increase



September 25, 2007

1 over a half billion miles a year in vehicle miles traveled by 2030. That's about a million  
2 and a half a day. It's like 60 trips around the world each day in additional vehicle miles  
3 traveled if the ICC is built compared to not. And given the close correlation between  
4 vehicle miles traveled and greenhouse gas emissions, and given that the Council of  
5 Governments says that Montgomery County needs to reduce its vehicle miles traveled  
6 by about 800 million by 2030 to get to where we need to be or where we should be  
7 heading, I'd like to find out how building the ICC is going to not undermine the efforts of  
8 Maryland, the efforts of our governor, the efforts of our senators, the efforts of  
9 Montgomery County, to meet this challenge -- which I assume people assume is not  
10 simply a goal but a necessity. So I'd like to understand the view of the State Highway  
11 Administration in terms of whether they think the ICC is going to help or hinder efforts to  
12 reduce greenhouse gas emissions and address global warming.  
13  
14  
15  
16

17 Neil Pedersen,  
18 Councilmember Andrews, I think you are quite aware of the fact that the issue of  
19 greenhouse gas emissions and trying to do technical analyses of this is extremely  
20 complex. It's something that the science is still very much evolving. We have worked  
21 very closely with Federal Highway Administration, with the Environmental Protection  
22 Agency, with the state resource agencies in terms of how to try to assess this particular  
23 issue. It's still very much an issue that is addressed in what I will call "qualitative terms."  
24 And it is not something in which VMT is the largest predictor in terms of greenhouse gas  
25 emissions. It is a function of the number of vehicle trips. It's a function of what mode  
26 vehicles are operating in from a temperature standpoint. It's a function of whether  
27 vehicles are operating in stop-and-go traffic or at steady speeds. So it is an issue that  
28 was addressed in qualitative terms, but there are not technical models available that  
29 can be giving us precise estimates one way or the other. There is still, I think, a long  
30 ways to go from a science perspective in terms of our full understanding of this issue.  
31

32 Councilmember Andrews,  
33 Are you saying you don't think that there's a connection between an increase in vehicle  
34 miles traveled and an increase in greenhouse gas emissions?  
35

36 Neil Pedersen,  
37 I'm saying that VMT is only one of many factors, and you have to be taking into account  
38 the other factors as well. Obviously, to the extent that we have a lot of idling taking  
39 place as a result of congestion, that ends up contributing to greenhouse gas emissions  
40 as well.  
41

42 Councilmember Andrews,  
43 Wouldn't it make sense, though, for the State's policy in addressing global warming to  
44 include a reduction in vehicle miles traveled -- which is the opposite of what we'll get if  
45 the ICC is built?  
46





September 25, 2007

1 Neil Pedersen,

2 State Transportation Policy is trying to address this from a multi-faceted standpoint, and  
3 we have a number of policies in place that address vehicles miles traveled as well. I'm  
4 personally very actively involved as we try to address that from a policy prospective.  
5

6 Councilmember Andrews,

7 I agree there needs to be a comprehensive approach. But this certainly makes it much  
8 harder to achieve any vehicle miles traveled reductions overall if the ICC is going to add  
9 hundreds of millions of vehicle miles on an annual basis by 2030, which is when we're  
10 trying to get down to a much lower emissions. Let me ask another question. Do we have  
11 all the representatives here from the Environmental Staff of Park and Planning who are  
12 working on the ICC?  
13

14 Royce Hanson,

15 We don't have the entire staff here, but we have a good number.  
16

17 Councilmember Andrews,

18 Uh-huh. Okay. The question I want to ask is, "What County environmental laws that are  
19 stricter than the State's is the ICC not going to comply with?"  
20

21 Dan Hardy,

22 I guess the State has gone above and beyond what they have to do to meet state  
23 legislation.  
24

25 Council President Praisner,

26 That's not his question.  
27

28 Dan Hardy,

29 Right. The question in terms of which County laws or the one that we are working with  
30 the State on has to do with looking at the process for reviewing the water quality plans  
31 in the Special Protection Area. I believe that's the primary -- that's the one that I am  
32 familiar with from a procedural perspective. We have worked with the State and the  
33 Planning Board and DPS, who plays a role in the permitting process on the County side,  
34 to develop a process that will review the environmental conditions with the objective to  
35 get as good a water quality product for the ICC, particularly with a focus in the Special  
36 Protection Areas, as is possible.  
37

38 Council President Praisner,

39 Can I follow-up, Councilmember Andrews?  
40

41 Councilmember Andrews,

42 Let me just -- just one and then please jump in. So in terms of water quality, is that  
43 including stormwater management?  
44

45 Dan Hardy,

46 Yes, it does.



September 25, 2007

Councilmember Andrews,  
Okay. So the State is not committing to adhere, as I understand your answer, to the County's stricter water quality and stormwater management standards for that area.

Dan Hardy,  
No, I don't think that's what I said. The State is not committed –

Council President Praisner,  
Well, the staff behind you – the Environmental Staff behind you – are nodding, "Yes."

Councilmember Andrews,  
It may not be what you said – I don't know that's what you said, but again I'm asking, "Is that the case?"

Dan Hardy,  
What the State is not committed to do is to follow our process for review. And, frankly, DPS as a County agency has also agreed that it's not appropriate to follow the letter of the County law in this regard. So we have crafted a process that we have briefed the Planning Board on in February and are pursuing to develop that process in more detail to have an SPA environmental review public hearing so that we will look at, in public session, what the State's design-builder comes up with both for water quality review in the Upper Paint Branch and the Upper Rock Creek Special Protection Areas.

Councilmember Andrews,  
Right. I'm interested in the actual standards and whether the project -- the ICC -- will meet the actual standards required by County law. And it sounds to me like you're saying it doesn't have to. The State is not planning at this point or it certainly is not holding itself to the standards that the County would hold itself if it were building a project in the area.

Dan Hardy,  
And I think as your letter pointed out, the State does not have to; but they are working to meet the intent of the water quality. DPS has already agreed that the work that they have done meets the intent of the County's water quality objectives.

Rob Shreeve,  
Madame President, can the State speak for itself, please?

Council President Praisner,  
Sure. Go right ahead. As a resident of the area, you can.

Rob Shreeve,



September 25, 2007

1 Federal Highway Administration's record of decision on the project says specifically that  
2 we will meet the intent of the SPA water quality ordinances.

3  
4 Council President Praisner,

5 Okay. Here's my question, if I may piggyback. As I understand the incentive for the  
6 contractor, the contractor gets paid more if he reduces the parkland impacts. But there's  
7 no equal incentive or measure looking at water quality; is that correct?

8  
9 Rob Shreeve,

10 No.

11  
12 Council President Praisner,

13 Well, what is the incentive clause that gives the contractor additional money for every  
14 acre of parkland avoided?

15  
16 Rob Shreeve,

17 There is an incentive for that, correct.

18  
19 Council President Praisner,

20 Okay. And my point is -- then I was correct. There is no incentive -- dollar incentive -- to  
21 the developer even if it's at the expense of water quality then?

22  
23 Rob Shreeve,

24 No.

25  
26 Council President Praisner,

27 No? How are you -- So the developer's design-build modifications or changes must  
28 meet not only -- must also be looked at for water quality --

29  
30 Rob Shreeve,

31 Yes.

32  
33 Council President Praisner,

34 -- and water quality has to be the same or better from his change?

35  
36 Rob Shreeve,

37 Yes. And there are incentives for --

38  
39 Council President Praisner,

40 So reducing the median to manage parkland reduction, even though it may have an  
41 impact on water quality, is not going to be approved?

42  
43 Rob Shreeve,

44 There will not be any reduction in water quality treatment from any change made from  
45 what is in the EIS. And, in fact, what we're looking at are changes that better what's in  
46 the EIS. There are incentives to protect forested land. There are incentives to have a



September 25, 2007

1 higher standard of erosion sediment control. There are incentives for a lot of the issues  
2 that surround water quality on this project. And we're literally talking about millions of  
3 dollars of incentives to protect water quality.

4  
5 Council President Praisner,

6 Is the financial incentive to the contractor the same as the financial incentive if you  
7 reduce parkland? Is there a similar financial incentive to improve beyond the state-of-  
8 the-art treatment that we talked about in the initial approval process? Is there an  
9 incentive of equal financial value to the contractor to improve water quality as there is to  
10 reduce parkland acreage?

11  
12 Rob Shreeve,

13 Well, he won't be able to build the project if he doesn't meet the water quality standards.

14  
15 Council President Praisner,

16 But that's not my question. My question is, "There is a financial incentive to the  
17 contractor for every acre of parkland that is reduced, correct?"

18  
19 Rob Shreeve,

20 The designated transportation area is what it is. It's not parkland that's being reduced.  
21 It's area that's already been set aside for the highway that could be returned back to  
22 parkland. That's the incentive.

23  
24 Council President Praisner,

25 Well, okay. The incentive is related to parkland. It's not -- and it's a financial incentive  
26 related to parkland, correct?

27  
28 Rob Shreeve,

29 Yes.

30  
31 Council President Praisner,

32 There is no financial incentive comparable related to improving water quality beyond  
33 what is already in the design-build process; is that true? So reducing parkland acreage,  
34 reducing the impact on parkland acreage by returning parkland land is a financial  
35 incentive to the contractor.

36  
37 Rob Shreeve,

38 But there's also a water quality benefit.

39  
40 Council President Praisner,

41 Can you get me a copy of where the financial incentive to the contractor is comparable  
42 for improving water quality beyond -- as an incentive to the contract that's comparable  
43 to the incentive related to parkland acreage?

44  
45 Melinda Peters,



September 25, 2007

1 We can provide you copies of the performance specifications and the requirements that  
2 were in the contract, as well as a list of all the incentives that are in the contract. Some  
3 of the coordination that we've had over the last several years on how these performance  
4 specs were written was based on coordination with all of the environmental agencies,  
5 and the incentives that are in these contracts are based on that coordination. I think the  
6 other point to make is that as there is reduction in forest impacts, that is a water-quality  
7 benefit because we are not then clearing additional forest acreage that is not needed.  
8 So there's an overall benefit to water quality by providing an incentive for saving that  
9 forest acreage. There are disincentives –

10  
11 Council President Praisner,  
12 Is that anywhere measured so that you can say, "X" automatically improves water  
13 quality -- the same way as acreage is a parkland acreage?

14  
15 Rob Shreeve,  
16 Maryland National Staff provided us with some very convincing literature.

17  
18 Council President Praisner,  
19 If environmental folks could provide that for me, I'd appreciate it, Mary.  
20 Melinda Peters,  
21 We'd be happy to.

22  
23 Councilmember Elrich,  
24 Could you clarify a small point for me? Maybe not so small. It's a small point – it's a  
25 word. Phil kept asking about "standards," and you guys kept using the words "meet the  
26 intent." So I want to know why you can't say, "meet the standards." Or is "intent" and  
27 "standards" two different things? The intent might be to not degrade water quality below  
28 a different level. That's different than saying that we're going achieve "X" standard. And  
29 I'm just curious because you've refused, on several occasions, to use the word  
30 "standard." You kept saying "intent," "intent," "intent." So which is it? Are you going to  
31 comply with standards, or are you going to comply with intent?

32  
33 Neil Pedersen,  
34 I think -- let me backup and start with the basic fact of our life. We have to get a permit  
35 from the Maryland Department of Environment. That is who we need to satisfy first and  
36 foremost. So we will have to meet whatever requirements the Maryland Department of  
37 Environment places upon us. We understand that there are many additional  
38 requirements that would be desired by Montgomery County under the SPA  
39 requirements. We want to try, to the extent that it is practical for us to do so, to be  
40 meeting those requirements as well. But if it comes down to a choice between what it is  
41 going to require for us to get a permit from MDE versus that, MDE is going to have the  
42 trump card first and foremost. Secondly, we have to also recognize that some of the  
43 requirements of the SPA process or the SPA standards may be very difficult in some  
44 instances. And there may be alternative ways for us to be trying to meet the intent,  
45 which is a water quality intent, that we want to reserve the ability to be able to at least



September 25, 2007

1 have those discussions in terms of those tradeoffs. So you are correct. We use the word  
2 "intent" and not the word "standard."

3  
4 Councilmember Elrich,

5 And does the word – another small thing – the word "practical." Is "practical" as in, "We  
6 don't have the money to do the full -- the environmental protection that would be  
7 necessary to achieve the standard; therefore, it's not practical to achieve the standard"?  
8 Is this a money issue?

9  
10 Neil Pedersen,

11 It is a money issue to the extent that if we can get greater environmental value by  
12 spending the money in an alternative manner, my goal as State Highway Administrator -  
13 - and I've made this very clear in terms of the discussions we've had with environmental  
14 agencies -- is to try to achieve the greatest environmental value that we can. I'll give you  
15 a specific example. If we can end up doing something that provides much greater  
16 benefit from a water quality standpoint than buying a very, very expensive piece of  
17 property, it may be in our collective best interests to be spending that money on that  
18 activity that provides us a much greater water quality benefit.

19  
20 Council President Praisner,

21 Are you done –

22  
23 Councilmember Elrich,

24 For that, yes.

25  
26 Council President Praisner,

27 Okay. Phil.

28  
29 Councilmember Andrews,

30 Thank you. A couple brief questions, and I'll submit a couple questions for you to take  
31 with you as well. There's a memorandum that went to Dan Hardy and Mary Dillon about  
32 the aesthetic design treatment standards for the highway. And a number of residents  
33 along the path of the highway have a lot of concerns about how things would look if it's  
34 built. Who's tracking the recommendations that were made regarding aesthetic  
35 standards for the highway?

36  
37 Dan Hardy,

38 I believe you're referring to probably a letter from last summer that was part of –

39  
40 Councilmember Andrews,

41 Yeah. It's a memorandum – it's dated June 28th from John Carter and Karen Kumm-  
42 Morris.

43  
44 Dan Hardy,

45 Right. And so that was part of our mandatory referral review. And the first state of  
46 tracking was that we did have thirteen comments that we sent to the State Highway



September 25, 2007

1 Administration, along with about 110 detailed comments as part of last summer's  
2 mandatory referral review. The State has responded point by point to each of those; and  
3 those, and those are on our website. We can get you copies of that.

4  
5 Councilmember Andrews,  
6 Okay.

7  
8 Dan Hardy,

9 At this point Karen Kumm-Morris is overall tracking aesthetics review. And we are now  
10 just, I think, at the -- design-builder for Contract A is just getting ready to prepare some  
11 of that material and do some coordination with the communities. And maybe Melinda  
12 and Rob could add to that.

13  
14 Melinda Peters,

15 Yeah. I guess I'd just like to add that one of the things I failed to mention in the update  
16 on the projects is that with each project we have community liaisons. And for Contract  
17 A, as an example, we have continued community outreach and coordination with  
18 communities on all of the contracts. On Contract A, in the next several weeks we will be  
19 holding open houses with communities to talk about the further development of the  
20 landscape design, the aesthetic treatments, and to get feedback at those open houses  
21 from the citizens that are going to be able to attend to provide those comments directly  
22 to us and to the design-builder.

23  
24 Councilmember Andrews,

25 Let me give you an example of a specific concern. I've been contacted by constituents  
26 who are concerned that the actual sound walls have already been selected in terms of  
27 what type of sound wall they would be. And their impression had been that they would  
28 have more input into what would be selected; and, in effect, they feel that it's already a  
29 done deal. So that is an example of where they feel that the input is coming after some  
30 decisions have already been made that they would have expected that they would have  
31 been able to weigh in on at least. And I will give you some details on that separately.

32  
33 Rob Shreeve,

34 We would appreciate that.

35  
36 Melinda Peters,

37 That would be great.

38  
39 Councilmember Andrews,

40 Okay. Thank you, Madame President.

41  
42 Council President Praisner,

43 Councilmember Berliner. Roger, you're next.

44  
45 Councilmember Berliner,



September 25, 2007

1 Thank you, Council President. Just a brief follow up with respect to the “trump” issue. As  
2 you said, the State Department of Environment holds the trump card. I was struck by  
3 your observation in a regard. Can you imagine a scenario in which the State  
4 Department would find it offensive to meet stricter environmental standards?  
5

6 Neil Pedersen,

7 We've had lengthy discussions – I've had lengthy discussions with policy level within the  
8 Maryland Department of Environment and this concept of trying to gain greatest  
9 environmental value per dollar expended. And that's really the approach that we're  
10 jointly trying to take on this. So there may well be instances in which collectively they  
11 feel that they would be getting greater benefit by our spending the dollars in a different  
12 way.  
13

14 Councilmember Berliner,

15 And if you make that determination, is there an understanding as to whether that would  
16 be communicated to this body as well as having a full discussion with respect to it? For  
17 example, I would be grateful – and I'm sure my colleagues would too -- if you concluded  
18 that a particular standard that Montgomery County has established is -- would not  
19 create the “value” that you seek. I, quite frankly, believe there's a burden, if you will, on  
20 you to demonstrate to us how you arrived at that conclusion and why. It could be that  
21 we would sit there upon reviewing your material and would say, “You know, by God,  
22 they're right.” But I do think that this is the type of issue that is important in terms of a  
23 dialogue with this community in particular, who is so concerned about the impact with  
24 respect to this project, that we be assured that to the extent that you deviate from the  
25 standards that we have here in Montgomery County, that you go out of your way to  
26 demonstrate why that is, in fact, a benefit to this community.  
27

28 Neil Pedersen,

29 We will have full and open discussion on those issues, first in the Interagency Working  
30 Group that Park and Planning Staff actively participates in, in the public hearings that  
31 will be held before the Planning Board. And we will certainly be more than willing to be  
32 sharing any of that with the Council as well.  
33

34 Councilmember Berliner,

35 If we could have a commitment – again, and I'm trying to be fairly specific here -- with  
36 respect to any standard that Montgomery County has that you conclude is either  
37 “impractical” or that you deem that the dollars would be spent better in a different way  
38 and achieve the “intent.” We have an understanding that your goal is to achieve the  
39 intent. But if you conclude that one of the standards should not be met in order to  
40 achieve this purpose in another way, we have an understanding that you will flesh that  
41 out fully and demonstrate why you arrived at that conclusion.  
42

43 Neil Pedersen,

44 Yes. And we will share that information with the Council.  
45

46 Councilmember Berliner,





September 25, 2007

1 Thank you.

2  
3 Council President Praisner,  
4 Councilmember Knapp wanted a point of privilege because he has to leave.

5  
6 Council Vice President Knapp,  
7 I just want to excuse me myself – apologize – I have to go pick up my daughter. But I  
8 just wanted to thank everyone for their participation today for a project of both this  
9 magnitude and that impassioned so much discussion and debate on all sides. I think the  
10 best way for us to continue to proceed is to have an open and frank dialogue and level  
11 of communication. And this is just one more step in that process. So I appreciate your  
12 taking the time and the willingness to come meet with us and to continue to have that  
13 dialogue going forward. Thank you, Madame President.

14  
15 Council President Praisner,  
16 Councilmember Trachtenberg?

17  
18 Councilmember Trachtenberg,  
19 Thank you, Madame Chair. I actually want to focus my remarks and questions around  
20 the issue of health – environmental health – because I see that as an aspect of this  
21 project which really hasn't been adequately addressed. At least in my mind that's the  
22 case, and I know others that actually feel the same way. I've handed out to colleagues –  
23 I apologize for not doing it in advance – an article that was just recently published in a  
24 peer review journal entitled "Environmental Health." And I have copies of it here. And it's  
25 fairly conclusive. And what it really states very clearly is that health risks from highway  
26 air pollution accrue most severely to those living/working directly adjacent to the  
27 highway. And that is especially true for children and the elderly. And, again, this is a  
28 review of many different research projects. It's basically a literature evaluation. And I  
29 think there's quite a bit of merit to what's said in the article. And one of the things that  
30 I've heard many times is that the Washington and Baltimore regions already have  
31 difficulty in meeting clean air standards for ground level ozone and fine particulate  
32 pollution. I mean, that has been discussed over and over again. And obviously both  
33 those pollutants pose significant public health threats. And according to the EPA, both  
34 Montgomery County and Prince George's County have some of the nation's highest  
35 levels of toxic and carcinogenic air pollution generated by cars, trucks, motor vehicles,  
36 traffic. So, again, I think it's important to state that for the record to put this into  
37 perspective. What I would ask is, "What kind of staffing have we had on the state level –  
38 either contractually or on staff – folks who have actually had the opportunity to evaluate  
39 the public health impact of this project?" Because I haven't seen anything in many of the  
40 statements that have been provided to the community on impact I have not seen  
41 anything which I would consider to be that substantial. So I wonder: Are we staffed to do  
42 that kind of evaluation?

43  
44 Neil Pedersen,



September 25, 2007

1 I'll start, and then let Melinda step in because she has been more directly involved. The  
2 subject that you have raised is, again, an evolving issued within the transportation  
3 profession. The article that you handed out, I believe, came out this summer.

4  
5 Councilmember Trachtenberg,  
6 Yes, last month.

7  
8 Neil Pedersen,  
9 And it's fairly recent. I am the Chair of the Technical Activities Council of the  
10 Transportation Research Board, and this issue is one of the issues that the  
11 Transportation Research Board has identified as an evolving issue that more research  
12 needs to be conducted. We need to be focusing on more as a research community. I  
13 think that the article, as I recall it, actually cites the fact that there is much more  
14 research that is needed within this area in terms of reaching more conclusions in this  
15 regard. We have had – this study, I guess, has put us in a position that we have had to  
16 try to hire the foremost experts in virtually every discipline that is any way related to the  
17 study. And we have had consultants that have been looking at the public health issue to  
18 the extent that there is knowledge and an ability to be able to look at that issue to date.  
19 But I'm going to ask Melinda if she will –

20  
21 Councilmember Trachtenberg,  
22 Well, let me back up though. Do we actually have a contractual arrangement with  
23 consultants that are providing us with that kind of direction, or is it something that we're  
24 entertaining? Is there an actual contract that exists for that kind of evaluation ongoing?

25  
26 Melinda Peters,  
27 Well, air quality analysis was done as part of –

28  
29 Councilmember Trachtenberg,  
30 Well, I'm not talking specifically about that. I'm really talking about some evaluation of  
31 health impact.

32  
33 Neil Pedersen,  
34 The air quality specialists and air quality standards are established based on public  
35 health standards and public health issues.

36  
37 Councilmember Trachtenberg,  
38 Well, that I know.

39  
40 Neil Pedersen,  
41 And those air quality specialists tend to be the ones that are the specialists within the  
42 public health impact arena as well.

43  
44 Melinda Peters,  
45 We have a very large consultant team and a consultant contractor who is providing  
46 support to us through the duration of the implementation of this project. I will mention



September 25, 2007

1 that our performance specifications for these design-build contracts do require certain  
2 standards from a potential need for retrofitting of construction equipment and monitoring  
3 of emissions during construction. We have certain standards put into our contracts that  
4 we are requiring for the idling of equipment and the duration for which that can occur  
5 and not occur; the modeling of the emissions from the construction equipment; and the  
6 requirement for certain percentages of retrofit during construction.

7  
8 Councilmember Trachtenberg,

9 Well, again, I want to go back to what I said earlier, which is that there has not been  
10 adequate conversation about this. And so it would seem to me that one of the objectives  
11 we would have in the months ahead would be actually to have information provided to  
12 the community – not just policy makers, but the general public – about potential impact  
13 on health. And, again, that's not something that I've seen directly. And I'm concerned  
14 that that's not been part of the conversation. And I do recognize, perhaps, it's a new  
15 part of the conversation; however, it's still a very important part of what needs to be  
16 taken into account. And I'm going to put this in writing after the meeting, but I have  
17 some specific questions about the population that perhaps might be put at respiratory  
18 risk that are adjacent to the proposed route of the ICC. I think that that would be  
19 something that would not be impossible to identify. And then using those numbers, I'd  
20 actually like some justifiable estimates of how many deaths and how many cases of  
21 heart and lung disease might be expected, again, among the residents from that  
22 exposure on the route of the ICC. I don't think it would be really hard to come up with  
23 some estimates. And I'd also like to have some estimate of those that are residing in  
24 that area that already have existing heart or lung problems. I don't believe that would be  
25 difficult. But I think that's a relevant part of the conversation. Again, it's something that's  
26 been under discussed; and it's very clear from the research that's been done that the  
27 proximity to major roadways does have significant impact on people's health – again,  
28 elderly and children. So to say that it's cutting-edge information, and it isn't something  
29 we've made investments in, that's true. And no one wants to point fingers. However,  
30 when you consider the magnitude of this type of project, it's really got to be something  
31 that we get serious about. And I intend on raising this until I feel there's some adequate  
32 focus put on it. To me, it would be common sense. And, again, I would also remind  
33 those that are here this afternoon that this body sits as the Health Board here in  
34 Montgomery County. So it is particularly important that we have some information from  
35 the State about the health impact that this particular project would have in the  
36 community where we live and where we serve.

37  
38 Council President Praisner,  
39 Councilmember Floreen.

40  
41 Councilmember Floreen,

42 Thank you, Madame President. Thank you to all of you from the State and our staff here  
43 who have been working on this. I know that this is a demanding experience and that the  
44 State has put considerable effort into all of this. Neil, as I recall, the State is spending  
45 about \$370 million on the environmental mitigation and stewardship package; is that the  
46 right number?



September 25, 2007

Neil Pedersen,

Correct -- if you take into account, for example, things like longer bridges. Yes, that's correct.

Councilmember Floreen,

And, you know, the challenge that I have in listening to this exchange and some of the comments of my colleagues is some of the context. I mean we could spend a lot of time -- and I'd just invite everybody to the T&E Committee meeting coming up. We're going to talk about the greenhouse gas emissions inventory that we're doing locally and how that fits into some of the things Councilmember Berliner has advanced and some other ideas that we're all working on. I wanted to note -- or do you want to talk a little bit about the air quality standards evaluation that this has been subjected to? I wanted to let my colleagues know that the Council of Governments is advocating with the EPA for tighter standards within the region. And we are in the middle of putting together a Particulate Matter State Implementation Plan that addresses some of the air quality and health issues that Councilmember Trachtenberg is alluding to, to a certain degree. But the issue not just of the ICC, but what we are faced with if we do not construct the ICC in terms of speeds, traffic speeds that generate emissions, vehicle miles traveled. And its emissions effect depends upon the kinds of emissions that are created, and that is affected by speed. Our relationship to existing communities is significant. Not building an ICC has its own set of issues that -- we're not having that exchange with respect to that because that's not really before us. So I am just wondering if the State has done work that would sort of compare and contrast the health issues associated with air quality under construction and a decision not to construct an ICC, but to do the other kinds of alternatives that are on the table if we were not proceeding this way.

Neil Pedersen,

The draft in filing environmental impact statements got into a fair amount of detail in terms of air quality impacts of each of the alternatives, including the no-build alternative. Obviously, it depends upon the specific location that you're dealing with. The effects of congestion are different on different air pollutants, so it actually varies depending upon which pollutant you're talking about as well as location. And there obviously are regional pollutants like ozone as well.

Councilmember Floreen,

Thanks.

Council President Praisner,

Okay. Councilmember Elrich.

Councilmember Elrich,

I have a few questions. One is, in your last comment -- I was at the COG briefing when they talked about metropolitan area air quality. And cars emit more carbon dioxide on



September 25, 2007

1 freeways than on local roads. So don't quote me on the exact grams, but it was 540  
2 grams per mile on a highway versus 450-something grams per mile on a non-highway.  
3 So it's hard to see this as a carbon friendly alternative to the County having looked at  
4 some other possible road alternatives in terms of carbon output. I also remember from  
5 the Transportation Policy Review Task Force that the effect of the ICC on the  
6 north/south roads was to make the north/south roads actually worse and the Beltway  
7 speeds actually drop. So you made a comment about idling. And then I guess the  
8 allusion is that if you have the ICC, there's less idling. But if most people drive on  
9 north/south roads and you've dropped the speed and increased the congestion on the  
10 north/south roads, haven't we in fact increased idling rather than decreased idling? And  
11 it was 4 percent of the trips that went end to end on the ICC.

12  
13 Neil Pedersen,

14 Well, again, it depends upon the specific locations that you're looking at on north/south  
15 roads. It depends upon the specific roadways themselves. There is considerable benefit  
16 to a number of locations along arterial roadways in terms of reduced congestion. In the  
17 immediate vicinity of the ICC interchanges themselves, yes, the number of north/south  
18 roadways actually do have higher volumes; you are correct.

19  
20 Councilmember Elrich,

21 Not just higher volumes, but lower speeds. I recall the Beltway speed dropped about 3  
22 miles per hour. And I was always amused because people would talk about the Beltway  
23 as a parking lot. We're going to do the ICC to keep it from becoming a parking lot. And  
24 you're looking at the studies done by the State or by COG; and the studies say, You're  
25 going to be more of a parking lot than you are now. I mean can we disabuse everybody  
26 of the notion that the ICC is going to relieve congestion on the Beltway and on 29 and  
27 these other routes?

28  
29 Neil Pedersen,

30 The State has been very consist in the information that we have provided that we do not  
31 expect that there is going be a significant impact on the Beltway in terms of traffic  
32 reduction.

33  
34 Councilmember Elrich,

35 I want to talk a little bit about the EIS a second. I assume you would agree that in EIS  
36 the decision to go forward with fast tracking or not fast tracking with EIS should be  
37 based on the scientific data. Would we all agree with that?

38  
39 Neil Pedersen,

40 The issue of the speed with which the EIS was completed had absolutely nothing to do  
41 with the magnitude or quality of the analyses that took place. It instead had to do with  
42 the process that was used in terms of how issues were dealt with. They were dealt with  
43 in face-to-face meetings, give-and-take discussions as opposed to months of  
44 exchanges of correspondence going back and forth. And that was really the impact in  
45 terms of the process itself. The magnitude and the quality of the analyses that went in  
46 was the same as it would have been if it had not been on that fast track process.



September 25, 2007

Councilmember Elrich,

Well, I guess I'm curious about that because I've seen as a result of a Freedom of Information request -- I believe it was the EPA's staffers or one of the staffer's recommendations or comments on whether this thing should be fast tracked. And the recommendation was not to fast track particularly because of the environmental issues raised by the selection of this alignment rather than northern alignment. There's actually a discussion in there that, "Well, if you're going to do the northern alignment, no it's not the master plan alignment but it had less environmental issues than the chosen route. And the suggestion is that given the fact that they're choosing this route, this is not a candidate -- should not have been a candidate for fast tracking. So the reviewer must have thought that there is something qualitatively different about the review other than face-to-face meetings. Otherwise if the process includes all the same science, all the same input, all the same deliberation, what's the difference between fast tracking and not fast tracking? Why would you not make it a candidate for fast tracking, or make it one?"

Neil Pedersen,

Well, on an issue of this level of complexity within any given agency where you have many people that are involved, you're going to have alternative opinions. I can tell you that I worked very closely with a number of people from EPA that actually cited this process that we used on this particular project as probably the best example of a highway process that they had ever been involved with.

Councilmember Elrich,

I guess -- I will only say that in this regard anyway that relying on the Bush EPA, I mean, to find -- we were in the position, I think, of deciding this is the only good EPA decision that's come out of the Bush administration in seven years. And I just find it odd that it's just a coincidence that as Democrats who will spend most of the next year dancing on the Bush administration of their environmental record, we will say that they've done everything wrong except the ICC. And I just find that a little difficult. I just --

Council President Praisner,

That's an aside. Do you have another question?

Neil Pedersen,

For the record, I do want to state that the people from EPA that I was referring to are all career professionals.

Councilmember Elrich,

Okay. You said the science of emissions was evolving; but I asked COG to disaggregate Montgomery County's numbers from the region's numbers; and they were able not only to disaggregate that, but come up with a projection for the CO2. So they seem to feel -- their recommendation -- the analysis they gave me was that an 8.3 reduction from 2003 levels of vehicle miles traveled would get us back to 2002 levels of CO2 emissions. And using the numbers that you had for additional vehicle miles



September 25, 2007

1 traveled by the EPA and using the rate that COG says is generated – of carbon dioxide  
2 generated, we wind up with I think it's 70 percent or some very large portion of  
3 Montgomery County's contribution toward this additional CO2 coming out of the ICC.  
4 Now, these are COG numbers. I asked Ron Kirby down there to run them for me and to  
5 disaggregate the information because I was interested to figure out where Montgomery  
6 County fits in all this. And I realized that perhaps in the scheme of global warming,  
7 Montgomery County's contribution is small; but there are many jurisdictions like  
8 Montgomery County faced with decisions that are similar. If we all choose the path of  
9 "What I do doesn't matter, so we're okay going on the way we're going," I think that's  
10 how we get into this mess in the first place. COG's projections for the D.C. area are, in a  
11 worst-case scenario, 48 percent increase in CO2 over current levels; and best-case  
12 scenario is 16% increase. And either one of those numbers just seems -- I thought  
13 should have sent up red flags in everybody's mind. I want to ask you a cost question  
14 now. By some miracle, the ICC appears to be the only project that anybody is  
15 constructing that hasn't been hit by very, very large increases in the cost of  
16 construction. So could you share the secrets of how that came about?

17  
18 Neil Pedersen,

19 I have worked for the State Highway Administration for 25 years, and I have had  
20 responsibility for both cost estimating and capital programming during that entire 25-  
21 year career. I can tell you during the early years of my career I got burned enough times  
22 on cost estimates that we developed very conservative cost estimating procedures.  
23 That is the reason why the Woodrow Wilson Bridge is the only mega project in the  
24 country that now is 87 percent complete and has stayed on its budget. In doing cost  
25 estimates for the Intercounty Connector, as we were making the initial cost estimates,  
26 the very clear direction that I gave to the staff and Melinda Peters, who is largely  
27 responsible for this, was whenever there was a question, err on the side of being high.  
28 And we had very conservative cost estimates. And our bidding experience thus far -- we  
29 have Contract A, and I am confident in proceeding forward as well -- has been that that  
30 conservativeness in the cost estimating procedures has enabled us to be able to get  
31 bids that are within the financial plan.

32  
33 Councilmember Elrich,

34 What are provisions if the costs -- I mean, under what conditions can a contractor come  
35 to you and say, "The bid isn't adequate" -- or can they do that? Or are they locked --

36  
37 Neil Pedersen,

38 No. They're locked in once they have a contract.

39  
40 Councilmember Elrich,

41 So if they encounter different environmental conditions than were in -- than what you  
42 spec'd -- they have no redress for that?

43  
44 Neil Pedersen,

45 If there are significant differences in field conditions, that may be an issue in terms of  
46 the bid price but --



September 25, 2007

Councilmember Elrich,  
I'm reading from – what is this document here?

Neil Pedersen,  
Melinda will elaborate on that point.

Melinda Peters,  
Let me elaborate on Neil's point there. For each of these five major design-build contracts, they are lump sum contracts. And the contractor agrees to perform based on the requirements in the contract. As part of our overall financial plan as well, we have built in a construction contingency for each of our contracts should we encounter conditions that are different from what was part of what they proposed on for the contract or a change to the contract from what was part of their initial lump sum price. And that is built into the overall financial plan for the ICC.

Councilmember Elrich,  
So that was built into both the 2004 estimate and the 2006 review? Because I notice -- I'm reading from the Executive summary -- the number for the total expenditure, including contingencies and inflation for the 2004 and the 2006, is \$2.45 billion.

Melinda Peters,  
Correct.

Councilmember Elrich,  
Is the contingency the same percent in both?

Melinda Peters,  
We have construction contingencies on each of our contracts based on our experience on the Woodrow Wilson Bridge and other mega projects and design-build projects. And annually every year we will go through a financial plan update and review with Federal Highway Administration.

Neil Pedersen,  
And as you get into more can detail in engineering, the contingencies that you use start to come down because you have more detail in terms of what the exact scope of the project is going to be. That's part of the change that we implemented under my direction based on our experience early in my career.

Councilmember Elrich,  
Because I'm looking at the major risks that you highlighted in this report, and you do still cite "risks that construction materials and fuel prices may continue to increase; that the current geotechnical information for the alignment is rather limited" – that's your





September 25, 2007

1 wording. "Depending on the findings from future field investigations, there could be a  
2 different mix of soil and rock." Have you done the further investigations?

3  
4 Melinda Peters,

5 Yes, we have. And there is additional geotechnical analysis that we did as part of each  
6 of the contracts as we develop our proposals. And then the design-builder is  
7 responsible for additional geotechnical efforts as part of their final design. And those  
8 major risks that were identified – as Neil mentioned, there's different contingencies built  
9 into the financial plan. As part of the development of our design, we have a design  
10 contingency as part of where we are in the overall percentage of design complete  
11 before we issue a contract for a design-builder to propose on. We then also have  
12 additional contingencies built in for construction issues that may come up during  
13 construction that might be outside the realm of what was part of their original proposal.  
14

15 Councilmember Elrich,

16 What is "value engineering"? You have a reference and you say, "Value engineering  
17 savings could increase the probability of actual project costs being below the estimate.  
18 A recent value engineering workshop was conducted, and the resulting alternatives  
19 identified." So you've identified value engineering alternatives now?  
20

21 Neil Pedersen,

22 Whenever we have a project of this magnitude, we have a fresh set of eyes that go in  
23 and look at the engineering plans to be making sure that the engineering has been done  
24 in the most cost-effective manner. That is what value engineering is.  
25

26 Councilmember Elrich,

27 So what happens when – I mean, if you have to do value engineering, things change.  
28 I've been through a – I've watched a building that a certain city tried to build go through  
29 an elaborate value engineering process and the darn thing didn't look like-- like it did on  
30 paper is not how it turned out on the ground. What comes out in value engineering?  
31 What have you all identified, and what will the process be? For example, if you have to  
32 make a choice, is that going to come before what agencies? And do they have to accept  
33 your choice; or can people say, "No. We don't want the valued engineer thing. You have  
34 to build it the way you told people it was going to be built"?  
35

36 Neil Pedersen,

37 Let me start and then you can elaborate. It depends upon the instructions that you give  
38 to the value engineering team. Very clear directions were given to the value engineering  
39 team that every commitment that we made in the final Environmental Impact Statement  
40 in Record of Decision was off limits in terms of suggestions that they could make to us.  
41

42 Councilmember Elrich,

43 So there'll be no changes in any of the environmental plans in the name of value  
44 engineering?  
45

46 Neil Pedersen,



September 25, 2007

1 That's correct.

2  
3 Councilmember Elrich,  
4 Okay.

5  
6 Neil Pedersen,  
7 Do you want to elaborate?

8  
9 Council President Praisner,  
10 I have just a couple of questions; and then I do think we need to wrap it up for this  
11 afternoon because as I promised you all, we'd be out by 5:30 at the latest. The ongoing  
12 issues that I think the Council –councilmembers have each identified questions, and  
13 there are more than the hour or so that we've had for questions to be followed or to  
14 allow for them back and forth. But in reviewing the answer -- and I don't want to be  
15 directing all of the questions or comments to State Highway and not to Park and  
16 Planning.

17  
18 Royce Hanson,  
19 Aw, shucks. [Laughter]

20  
21 Council President Praisner,  
22 In reviewing – well, we have more opportunity to meet with you, Royce and folks. But in  
23 reviewing the process for review and the interaction, I guess, the concern that I have on  
24 an ongoing basis is how much Environmental Staff has the capacity and ability to weigh  
25 in; how much we will know as a Council, as well as the Planning Board, what concerns  
26 Environmental Staff may have. The design-build process does allow opportunities for  
27 the builder to come back – contractor -- and make modifications or present those in  
28 these big committees. I'm not sure who gets to sign off and who in the world knows  
29 about those modifications before they're being made such that they can weigh in about  
30 concerns that there might be. The working group is an internal group as far as I can  
31 see. And so as the councilmember who represents the community in much of this area -  
32 - and the Planning Board, which I would assume is also concerned as all of you may be  
33 about the environmental issues -- with the contractor and the design-build process  
34 where the contractor has incentives on certain issues; has an ability to present  
35 modifications that they may want to make, including in their state-of-the-art process that  
36 we're talking about in the original proposal; how can I be assured that I as a  
37 councilmember and the Environmental Staff of Park and Planning have a chance to  
38 weigh in and to know what's on the table and what the tradeoffs are going back to water  
39 quality, parkland, mitigation, or a reduction in the taking or use of parkland? How can I  
40 be assured that Environmental Staff has a chance to weigh in and the County  
41 Councilmembers representing the community have a chance to know what the choices  
42 are and what issues are being discussed within the design-build concept with the  
43 contractor, going back to the incentives that contractor has for more money in some  
44 options? So I don't want to take the time now, but that's a major question that I have --  
45 both from a Planning Board perspective of your involvement and State Highway's  
46 commitment as far as the process is concerned. The second piece is while I understand



September 25, 2007

1 the reports and the dialogue of the presentations brought on a periodic basis to Park  
2 and Planning, with all due respect, the issues that have been brought have been on the  
3 margins as far as I'm concerned. Maybe you think them not; but I think they're on the  
4 margins when it comes to some of the major issues that may come forward through the  
5 actual construction process, again, dealing especially with the environmental issues.  
6 And it is still not clear to me from reading the packets of the outcome measures  
7 associated with the evaluation rather than the reporting conversation – the dialogue with  
8 the City in the previous conversation; this most recent one about the tradeoff on the  
9 pond. The pond is significant, but those aren't the big issues that may occur when  
10 you're going through construction. I'm still not clear on the Stop Work Order if  
11 something happens in the field – how far and how fast people will know that there's  
12 been a problem. We've had blowouts in streams. We've had blowouts in streams from  
13 private sector; we've had blowouts in streams from public sector projects. And then I  
14 have to – or someone in the community in most cases sees it first – and then we have  
15 to scramble after hours to find the appropriate department to call to get an inspector out  
16 there after hours to look at what's going on. How can I be assured that after hours isn't  
17 a problem on this issue? Are there going to be numbers posted where if someone sees  
18 a problem, they can immediately call 24/7 to deal with environmental issues? Because  
19 in the case of streams and stream blowouts, it doesn't take very long for it to be a  
20 significant issue. Those are the kinds of questions. And the final question that I'll raise  
21 relates to who has the authority within Park and Planning at what levels in this process  
22 – if any – on what issues? And it would be helpful for me to understand that from that  
23 perspective. Does it all have to – you showed me the funnel and the committees. Does  
24 it all have to go to you, Dan, before something gets okayed; or can someone in another  
25 section have the ability to move on those issues? If there's a difference of opinion within  
26 the team, how does that get resolved on the way up? I'm just listing the questions,  
27 Royce; I'll give you a minute at the end to kind of comment, but I don't expect the  
28 answers on this at this point. These are the lists of questions. And the final issue that I  
29 have to admit sticks in my craw more than anything is the fact that the largest piece of  
30 property being purchased associated with environmental stewardship or whichever  
31 category it's in, is a parcel of forested land in the RDT Zone with lack of construction  
32 extremely likely -- maybe what? -- twenty units from the Casey Forest? Yes, it's a prime  
33 forest perhaps – a transmission line runs through it I would comment. It's not likely,  
34 given the topography and the zoning, to be at risk in any way, shape, or form – and oh,  
35 by the way, it's on the west side of 270. It has no relationship to the impacts of the  
36 communities -- whether they're social impacts, environmental impacts, imperviousness  
37 impacts, forest impacts. It has no relationship to the Intercounty Connector and the  
38 communities who are affected. It's not even a parcel that really is at risk – whatever the  
39 late Mrs. Casey might have thought about what she could get from it. And folks in that  
40 area have, in essence, protected the land surrounding it to a state that I think it is also  
41 highly likely that it would not be developed. And the yield is questionable. Yet we're  
42 going to spend how much money to buy that land? Have we as yet? And we're not  
43 protecting the properties that are in the right of way of the ICC. And when I tell  
44 community people that the largest parcel being purchased is west of 270, advocates  
45 and opponents alike just shake their heads. So I want to know the extent to which that  
46 issue can be reviewed and re-examined. And as I said, I have a whole host of other



September 25, 2007

1 questions about monitoring and tracking that relate to a confidence level that if  
2 something happens or if the design-build contractor wants to put forward some option  
3 that either saves him time, saves him money, or changes the design, that it's going to  
4 be evaluated but that we are also going to be informed. Because you sold this to many  
5 people as a state-of-the-art process that was going to have these positives. And so the  
6 question is, "If the state-of-the-art process is being modified, then how do we know  
7 we're still getting the outcome?" As I indicated, councilmembers will have a significant  
8 amount of ongoing questions. I anticipate another one of these meetings scheduled to  
9 continue as we track the process and to request reporting to the Council on a regular  
10 basis related to the environmental issues. Royce.

11  
12 Royce Hanson,

13 Just a couple of comments. With regard to the process, we not only are represented on  
14 the Interagency Committee, but we're present in the field -- both through Park Staff and  
15 through Kyle in monitoring activity. If a problem arises and it cannot be immediately  
16 solved on the site, then Dan will be notified of the matter and his counterpart -- Melinda  
17 probably in that case -- would be engaged. And if it cannot be solved at that level, then it  
18 comes to Neil and to me. We will try to work a problem out. We have had at least two  
19 conversations on this since I became chairman. And the idea is we will try to resolve  
20 that matter as quickly as it can be resolved. Now, I can't tell you minutes; but our  
21 commitment is to get a decision right away.

22  
23 Council President Praisner,

24 I would like to request notice to the Council when any of those incidents occur.

25  
26 Royce Hanson,

27 All right -- that may delay resolution.

28  
29 Council President Praisner,

30 I don't see how sending an e-mail notice to the Council is any different than the fact that  
31 I make calls to you all for notice.

32  
33  
34  
35 Royce Hanson,

36 An e-mail is fine. Right. We'll be glad to let you know.

37  
38 Council President Praisner,

39 Thank you.

40  
41 Royce Hanson,

42 The other thing that I think is important and this -- we have had regular monthly review  
43 meetings which are a follow-on to the mandatory review process -- that have ranged  
44 from amicable to substantially contentious in dealing with various kinds of issues. We  
45 have agreement that, at our insistence, goes beyond what would have ordinarily have  
46 been required under the Record of Decision -- particularly in the Special Protection



September 25, 2007

1 Areas – that the water quality plans will come to the Board for review and hearing so  
2 that we can make a recommendation to the Department of the Environment which, as  
3 Neil said, has the final decision as the State agency involved on an environmental  
4 matter. But I think it is safe to say that our staff both on the Planning side and on the  
5 Parks side are extraordinarily concerned and serious about the environmental  
6 stewardship responsibilities of the agency. The folks that are in these positions are not  
7 there because they care little for the environment.

8  
9 Council President Praisner,

10 Mr. Hanson, if anything that I said suggested that I think the environmental folks do not  
11 care about the environment, let me correct that record if that's the impression.

12  
13 Royce Hanson,

14 That was not – but I just want to assure the Council that no one is looking at this lightly.

15  
16 Council President Praisner,

17 I want to assure Park and Planning that I have great confidence in their environmental  
18 monitoring of a variety of issues. I just want them to be able to act, and I want them to  
19 be able to let those of us who share their concerns be informed of the state of  
20 conditions in almost immediate time as well. As I indicated, no matter the position that  
21 individual councilmembers may have on the issue of whether the ICC should be built or  
22 not, the environmental implications draw all of us together on the issues of concern and  
23 of monitoring and of assurance that the environmental implications continue and have  
24 the kind of weight and prominence that we believe they should and must remain. As I  
25 said, the reason in my view why the federal agencies had issues with this project –  
26 whether it was in whatever year or form – was because of the significant environmental  
27 issues associated with the Master Plan alignment. And those issues haven't gone away;  
28 they've become more extreme and significant as we have focused more on climate  
29 issues, on the Chesapeake Bay. I just spent two days in York, Pennsylvania, looking at  
30 the Susquehanna River talking about how Pennsylvania must monitor the Susquehanna  
31 for the Bay. Well, no matter where the headwaters are, there are headwaters in  
32 Montgomery County as well – significant headwaters given the presence of trout –  
33 which, lest anyone think we are trout lovers only, are a reflection of the water quality  
34 because of the capacity of the trout to generate themselves. And it's that water quality  
35 that continues to be the issue of concern. I see my colleague, Councilmember Berliner,  
36 nodding. That's the issue of concern. I know that knowing the honorable people at State  
37 Highway Administration – as I said, including those who reside in the general area – the  
38 Special Protection Area is a very important issue to this County. So we will submit the  
39 written questions for all of your consideration. We would request as prompt a reply as  
40 possible, and we will continue to schedule meetings to monitor the status of things and  
41 to bring the agencies and individuals here. Thank you for your willingness to come  
42 today. And I know we've gone over the time, and I apologize. We are adjourned.